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ABSTRACT

The guide is designed for a one-semester high school course focusing on American problems. Objectives are to help students develop a practical understanding of the law, acquire an appreciation of the principles of our laws, and participate in the legal system. The guide is arranged in three major units. Following a course outline and list of student materials, unit I contains 4 lessons dealing with the nature of law. Unit II includes lessons on the causes of crime, crimes against people, crimes against property, and controversial crimes. The four lessons in the final unit examine the following aspects of the criminal justice system: pre-arrest and pre-trial, trial, sentencing, and juvenile justice. Learning activities take a variety of forms, including role plays and simulations, news analyses, news reporting, field trips, and interviews. Each unit includes the following components: an overview, concepts, generalizations, learning objectives, vocabulary, activities, readings, worksheets, appendices, and student materials. (LP)

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AMERICAN PROBLEMS: A LAW-RELATED EDUCATION COURSE
(A High School One Semester Course)

SØ 015 328

Office of Instructional Services/General Education Branch, Department
of Education, State of Hawaii
RS 83-4145
March 1983

FOREWORD

This publication is designed to aid teachers who will be teaching a one-semester course in American Problems at the high school level. American Problems is a minimum elective course in the Secondary Social Studies Program, a course that must be offered among the social studies specialized electives for grades eleven and twelve. The curriculum for this course is designed to develop a practical understanding of law and the American legal system and provide students with experiences which will reinforce their sense of justice and enable them to participate more fully in problem-solving and decision-making in the American political/social system.

This curriculum resource guide is presented in three units of study. Each unit begins with an overview and includes the following: (1) concepts; (2) generalizations; (3) objectives; (4) vocabulary words to know; (5) a series of introductory, developmental and culminating lessons and activities; and (6) readings and worksheets.

This guide was developed and written by Madeline Cahoon, a teacher at Kailua High School, and edited by Jane Kinoshita, a resource teacher in the Office of Instructional Services.

Implementation will be guided and assisted by specialists from the district offices and the Office of Instructional Services.

Donnis H Thomp

Dr. Donnis H. Thompson
Superintendent

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INTRODUCTION

This curriculum resource guide, American Problems, A Law-Related Education Course, is designed for a one-semester high school specialized elective course. It is based on the book, Street Law: A Course in Practical Law. Street Law was developed by The National Street Law Institute in Washington, D. C. to promote increased opportunities for citizen education in law. Street law is the idea of educating citizens about law that will be of practical use to them in their everyday lives. Law is a pervasive factor of American society and affects everyone, from morning to night and from birth to death. Thus, it is important for citizens to understand their legal rights and responsibilities, to acquire knowledge of everyday legal problems and develop the ability to analyze, evaluate and resolve disputes.

This course is presented in the following units:

UNIT I: THE NATURE OF LAW. Every society recognizes the need for law, whether the law is written or not. Law in our American society is made by the national Congress, state legislatures, government agencies, the judiciary and is also influenced by citizens. This unit explores the nature and kinds of laws, the making of laws and civil law as it applies to the American family. Teachers may select other areas of civil law instead of or in addition to family law.

UNIT II: THE PROBLEM OF CRIME. Crime has been a major problem in America and the costs of crime affect all people. This unit inquires into various kinds of crime and examines the complex causes and solutions.

UNIT III: CRIMINAL JUSTICE PROCESS. In the American system of justice, the rights of the accused are important to protect the basic American right to a fair trial. At the same time, this right to a fair trial must be balanced by the welfare of society. This unit examines the criminal proceedings from pre-arrest to sentencing.

The objectives of this course are to help students achieve the following:

- Develop a practical understanding of law and the legal system that will be useful in their daily lives.

- Develop an improved understanding and appreciation of the principles and values of our laws and legal system.

- Become more willing to participate in the American political/legal system (voting, lobbying, jury duty, etc.).

- Become more willing to listen to diverse viewpoints in order to help bring about a greater sense of fairness, justice and tolerance.

- Become knowledgeable about the role that lawyers, judges, and law enforcement personnel play in the American political/legal system.
- Improve basic and social studies skills such as reading, writing, oral communication, critical and divergent thinking, problem solving, data processing, valuing and human relations.

Sample lessons and activities have been provided. Each lesson consists of several activities and will take longer than one class period to teach. Some of the topics are controversial and teachers should refer to the Department of Education policy statement on controversial issues (Policies and Regulations, Instructional Program and Services, 2320.1) when those topics are addressed. The policy is as follows:

> Student discussion of issues which generate opposing points of view shall be considered a normal part of the learning process in every area of the school program. The depth of the discussion shall be determined by the maturity of the students.
>
> Teachers shall refer students to resources reflecting all points of view. Discussions, including contributions made by the teacher or resource person, shall be maintained on an objective, factual basis. Stress shall be placed on learning how to make judgments based on facts.

In the final analysis, teachers are encouraged to use their imagination and creativity to link the lessons to the everyday world of the students.

COURSE OUTLINE

I. The Nature of Law

  A. What is Law?

    a. Nature of Law
    b. Kinds of Law

  B. Who Are the Lawmakers?

    a. Legislatures
    b. Government Agencies
    c. Citizens
    d. Judiciary

  C. Introduction to Civil Process

    a. Role of Lawyers
    b. Dispute Settlement

  D. Family Law *

    a. The Changing Family
    b. Requirements in Marriage
    c. Abuse in Families
    d. Emerging Issues

II. The Problem of Crime

  A. The Nature and Causes of Crime

    a. Parties to Crime
    b. Extent of Crime
    c. Causes and Solutions of Crime
    d. Victims of Crime
    e. Costs of Crime

  B. Crimes Against the Person

    a. Homicide
    b. Assault and Battery
    c. Rape

  C. Crimes Against Property

    a. Vandalism
    b. Shoplifting

  D. Controversial Crimes

    a. Drug Offenses
    b. Sex Offenses

III. Criminal Justice Process

A. Pre-arrest to Pre-trial

a. Search and Seizure
b. Arrest
c. Interrogation and Confession
d. Booking and Initial Appearance
e. Bail and Pre-trial Release
f. Defenses
g. Pre-trial Motions
h. Plea Bargaining

B. The Trial

a. Due Process Rights
b. Legal System

C. Sentencing

a. Sentence
b. Prisons
c. Capital Punishment

D. Juvenile Justice

a. Family Court
b. Juvenile Rights
c. Inequities of Juvenile Justice System
d. Juvenile Violent Crime

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* Teachers may select other areas of civil law instead of or in addition to family law.

MATERIALS FOR STUDENT LEARNING

BOOKS:

Arbetman, Lee, Edward McMahon and Edward O'Brien. *Street Law: A Course In Practical Law*. New York: West Publishing Company, 1980.

Archer, Jules. *Who's Running Your Life? A Look at Young People's Rights.* New York: Harcourt Brace Jovanovich, 1979.

Bugliose, Vincent and Curt Gentry. *Helter-Skelter*. New York: Bantam Books, 1975.(paper)

Capote, Truman. *In Cold Blood*. New York: Random House, 1965.

The Hawaii Crime Commission. *Principles of Criminal Proceedings in Hawaii's Judicial System*. Honolulu, 1980.(paper)

Deming, Richard. *Criminal Law at Work*. New York: Dell Books, 1974.(paper)

Dorman, Michael. *Under 21*. New York: Dell Books, 1970. (paper)

Epstein, Sam and Beryl. *Kids in Court: The ACLU Defends Their Rights*. Bristol, Florida: Four Winds, 1982.

Freifeld, Wilbur and Frank Toddeo. *The Legal Facts of Life*. New York: Dutton Books, 1982.

Gillers, Stephen. *Getting Justice: Rights of People*. New York: Mentor Books, 1973. (paper)

Krause, Harry. *Family Law in a Nutshell*. New York: West Publishing Company, 1981.

Leinwand, Gerald. *The Police*. New York: Pocket Books, 1972. (paper)

Leinwand, Gerald, ed. *Prisons*. New York: Pocket Books, 1972. (paper)

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Lewis, Anthony. *Gideon's Trumpet*. New York: Random House, 1964.

Miller, Arthur. *Miller's Court*. Boston: Houghton Mifflin Co., 1982.

Prescott, Peter. *The Child Savers*. New York: Knopf Publishers, 1981.

Rosengart, Oliver. *The Rights of Suspects*. New York: Avon Books, 1974. (paper)

Rubenstein, Jonathan. *City Police*. New York: Ballantine Books, 1975. (paper)

Sears, Robert. *The Criminal Law and You*. New York: Oxford Book Company, 1973. (paper)

Sgroi, Peter. *Blue Jeans and Black Robes: Teenagers and the Supreme Court*. New York: Messner, 1979.

Silberman, Charles. *Criminal Violence, Criminal Justice*. New York: Random House, 1978.

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Sussman, Alan. *The Rights of Young People*. New York: Avon Books, 1977. (paper)

Sussman, Alan and Martin Guggenheim. *The Rights of Parents*. New York: Avon Books, 1980.

Swiger, Elinor. *Law in Everyday Life*. Evanston, Illinois: McDougal-Littell, 1979. (paper)

PAMPHLETS:

Hawaii Legal Auxiliary. *The Laws Are Yours*. Honolulu, 1981.

League of Women Voters of Hawaii. *League Looks at Lock-Up*. Honolulu, May 1981.

League of Women Voters of Hawaii. *Under Eighteen and Under Arrest.* Honolulu, 1980.

Morris, Norval and James Jacobs. *Proposals for Prison Reform*. Public Affairs Pamphlet #510, Public Affairs Committee, New York, 1974.

Rice, Robert. *The Challenge of Crime*. Public Affairs Pamphlet #425, Public Affairs Committee, New York, 1974.

PERIODICAL AND JOURNAL ARTICLES:

"American Justice: ABC's of How It Really Works." *U.S. News & World Report*, November 1, 1982.

Brill, Steven. "A Dishonest Defense." *Psychology Today*, November 1981.

Goodman, Gail S. and Joseph Michelli. "Would You Believe a Child Witness?" *Psychology Today*, November 1981.

"The Insanity Plea on Trial." *Newsweek*, May 24, 1982.

Lipman, Victor. "Anna Rape Case." *Honolulu Magazine*, May 1981.

Lipman, Victor. "A Question of Sanity." *Honolulu Magazine*, February 1981.

Neely, Richard. "The Politics of Crime." *Atlantic*, August 1982.

McCord, William and Jose Sanchez. "Curing Criminal Negligence." *Psychology Today*, April 1982.

"A Pictorial Measure of Adolescent Perceptions of the Police." *Social Education*, March 1980.

Stevens, Gene. "Crime In the Year 2000." *The Futurist*, April 1981.

Wilson, James A. and George S. Kelling. "Broken Windows." *Atlantic*, March 1982.

STUDENT MAGAZINES:

Bill of Rights Newsletter, published by Constitutional Rights Foundation.

Update, published by the American Bar Association three times yearly.

Senior Scholastic.

FILMS FROM HAWAII STATE DEPARTMENT OF EDUCATION, AUDIOVISUAL SERVICES UNIT:

An Act of Congress	7371
Angel Death (drugs)	7424
Appellate System	7088
Arrest and Seize	6571
Authority and Rebellion	6355
Bill of Rights in Action	5650
Breaking and Entering (circuit court)	7098
Caught in a Rip Off	6751
Caught Shoplifting	6109
Crime and the Criminal (justice system)	7375
Decision Making	7491
Eye of the Beholder (perception and crime)	6446 US
Free Press vs. Fair Trial	5132 M
Getting Busted	6339
Geoffrey's Case (juvenile justice)	7136

How to Say No to a Rapist and Survive 6360 S

Jury and Juror 6589

Justice, Crime, Criminals and the System 7362

Justice on Trial 7135

Justice Under Law (Gideon Case) 4017 H

Juvenile Court 7136

Lobbying: A Case History 7139

Luke Was There (juvenile delinquency) 6853 S

Municipal Court 7152

No Body's Victim (self-defense) 5668

No Cop Is a Hero Until You Need One 6529

On Guard Bunco (con games) 5464

The Ripoff (shoplifting) 6302

This Child is Rated X (juvenile justice) 5673

Thumbs Down (hitchhiking) 6592

Under Arrest 6571

The Vandals 6427

Violence Just For Fun 6460

OTHERS:

Daily newspapers

Newsmagazines

Law dictionary

UNIT I: THE NATURE OF LAW

Overview

Law is a basic and pervasive factor in American society. It affects everyone from morning to night and from birth to death. Americans have held steadfast to the idea that individuals and groups can bring about a more just society by effecting change through a system of laws. And whatever changes are made must be within the framework of laws as it applies to the U.S. Constitution and the Bill of Rights. Thus, it is important that students become knowledgeable about the origins of American law, the political/legal system and how it operates.

Lesson I examines the pervasiveness of law, the relationship between law and morality and the difference between civil and criminal law.

Lesson II inquires into the question "Who are the lawmakers?" It examines the roles of federal and state legislatures, government agencies, citizens and the judiciary in the lawmaking process.

Lesson III introduces students to the civil process. It examines the adversary nature of the trial system and the role of lawyers. It also looks at alternative ways of settling disputes.

Lesson IV examines one aspect of civil law - family law. It looks at the changing American family and examines the need to change laws relating to the family. The problem of abuse in families is also studied.

UNIT I: THE NATURE OF LAW

Content Concepts

1. Law
2. Civil Law
3. Civil Justice Process
4. Judicial Review
5. Lobbying
6. Dispute Settlement

Generalizations

1. Every society recognizes the need for law.
2. Law is a basic and pervasive force in our society.
3. Laws are classified into two major groups, criminal and civil.
4. The U.S. Constitution defines the structure of government, establishes basic rights of citizens and sets limits on lawmakers and lawmaking.
5. Laws are made by legislatures, agencies and courts at the federal, state and local levels of government.
6. Lobbying and voting are ways in which citizens can influence the lawmaking process.
7. Much of everyday life is covered by civil law. It deals with the private rights of individuals or organizations and conflicts arising from these rights. It includes all areas of law that do not involve criminal matters.
8. The American family is changing in size, shape and purpose. Laws are also evolving to reflect these changes in society.
9. Abuse is a serious problem in the American family and occurs in families of all races and economic levels.

Objectives

1. Explain the purpose for law and identify examples of laws that affect an individual's daily life.
2. Explain the difference between criminal and civil law.

3. Identify the branches of government which have a lawmaking function and explain how each makes laws.

4. Explain the ways in which an individual citizen can affect the lawmaking process.

5. Describe how courts settle disputes between people.

6. Identify the ways in which disputes might be settled out of court and why this is often preferable to going to court.

7. Describe how the American family and laws pertaining to the family are changing.

8. Analyze the problem of abuse in families and examine alternative ways of dealing with the problem.

LESSON I: WHAT IS LAW?

Content Concepts

1. Law
2. Civil Law

Generalizations

1. Every society recognizes the need for law.
2. Law is a basic and pervasive force in our society.
3. Laws are classified into two major groups, criminal and civil.

Objectives

1. Explain the purpose for law.
2. Identify examples of laws that affect an individual's daily life.
3. Explain the relationship between law and morals by analyzing a problem situation.
4. Explain the difference between criminal and civil law.
5. Identify and give examples of a civil action.

Vocabulary Words to Know

1. Anarchy: Absence of government, lawlessness.
2. Civil Action: A lawsuit brought by one or more persons against another individual, business, or the government.
3. Civil Law: All areas of law that do not involve criminal matters.
4. Criminal Law: Law which defines and prohibits offenses for the protection of the public.
5. Jurisprudence: The study of law.
6. Law: Rules and regulations by which government controls the behavior of people in a given society.
7. Morals: Principles, standards, habits with respect to what is right or wrong conduct.

Initiating Activity

Introduce students to this lesson (and the course) by discussing the questions listed below. Encourage students to participate and acknowledge all who respond. This lesson can also be used to assess students' prior knowledge.

- What is law?
- Where do laws come from?
- Do we need laws?
- Are all laws written?
- Can laws change? How?
- Are all laws fair?
- Is there a difference between laws and morals?
- Are there situations where there seem to be no laws? What are these situations called?

If appropriate, ask students to give specific examples to clarify or illustrate their answers.

Developmental Activities

1. Nature of Law

Students may do the following activity either individually or in small groups. This activity illustrates the pervasiveness of law in our daily lives.

Ask students to list their activities from the time they arise in the morning until the end of the school day. Then have them identify those activities which they think are affected by law. Follow with a class discussion of their findings and write their responses on the board. The purposes for the laws may also be discussed.

E.g.,

Activities	How Affected By Law	Purpose(s) for Law
1. Brushing teeth	1. Ingredients in toothpaste must comply with federal regulations and standards.	1.
2.	2.	2.

Have students make summary statements about the law.

2. What Is Law?

   Have students identify the laws that are applicable to given situations, such as a rock concert, swimming party (at a public beach) and weekend party. Laws relating to noise, use of drugs, decency, etc., may be discussed. Then ask students to develop a definition of law.

3. Law and Morality

   a. There is an important relationship between law and morality. In our American democratic society many of the people's basic moral values are reflected in the law and it is important that students understand this relationship. Have students read "Law and Morality" in Unit I: Appendix A located at the end of this unit.

      Discuss the following questions:

      - How are law and morality interrelated?

      - What is the difference between law and morality?

   b. Have students read "A Murder That Wasn't Reported" in Unit I: Appendix B at the end of this unit.

      Questions to discuss may include the following:

      - What are some possible reasons why classmates of the victim did not report her body?

      - Is failure to report a body a crime? Do you think it should be a crime? Explain.

      - Do you think failure to report a body is immoral? Explain.

4. Kinds of Laws

   a. Have students suggest definitions for criminal and civil law. Continue the discussion until students reach a consensus on the definitions. Have students compare their definitions with the definitions and explanations given in Arbetman, Street Law, pp. 5-6, or in another text.

      Ask students to identify examples of civil and criminal laws.

      E.g.,
      - Marriage, divorce and contracts involve civil law.
      - Murder, rape and shoplifting involve criminal law.

b. Point out to students that a single action can violate both civil and criminal law. The problem of drunk driving may be used to illustrate this. Have students read Unit I, Appendix C: "Drunk Driver Tells Students How He Killed His Best Friend" located at the end of this unit.

The following questions may be discussed:

- What criminal and civil laws are involved?
- Do you think the criminal punishment in the case was appropriate and fair? If not, what punishment would you recommend?
- If the parents of Brian Jones win the civil case against Smith, how will Smith be affected? (Garnishment of wages, assets used for judgment, etc.)

Culminating Activity

Have students write short summaries of news articles which show a relationship to civil or criminal law. Ask students to determine whether criminal and/or civil law is involved. Students may also state the purpose for the law and whether or not they think the law is a good one or should be changed.

LESSON II: WHO ARE THE LAWMAKERS?

Content Concepts

1. Judicial System
2. Judicial Review
3. Law
4. Lobbying

Generalizations

1. The U.S. Constitution defines the structure of government, establishes basic rights of citizens and sets limits on lawmakers and lawmaking.
2. Laws are made by legislatures, agencies and courts at the federal, state and local levels of government.
3. Lobbying and voting are ways in which citizens can influence the lawmaking process.

Objectives

1. Identify the branches of government which have a lawmaking function and explain how each makes laws.
2. Identify whether a given law is a federal, state or local law.
3. Explain the ways in which an individual citizen can affect the lawmaking process.

Vocabulary Words to Know

1. Case Law: Law made by courts, also called Common Law.
2. Error of Law: A mistake made by a judge in legal proceedings during a trial that may allow the case to be appealed.
3. Judicial Review: Process by which courts decide whether the laws passed by legislatures are constitutional.
4. Judicial System: The court system - federal, state and local.
5. Lobbying: Influencing or persuading legislators to take action to introduce a bill or vote a certain way on a proposed law.

6. Ordinances: County or city laws.

7. Precedents: Court decisions that are considered as giving direction to future cases on similar issues.

8. Statutes: Laws enacted by legislatures on the federal or state level.

Initiating Activity

Review the structure of the U.S. government. A chart of the government in Arbetman, Street Law, p. 13 can be used for the review.

Discuss the similarities and differences among the federal, state and local governmental structures.

Review the limits imposed by the U.S. Constitution on lawmaking functions.

Developmental Activities

1. Legislatures

Point out to students that legislatures pass laws directly and the U.S. Constitution divides the power for making laws between the federal government and the states. Each state's constitution divides the lawmaking power between the state government and the local governments. Students may read about legislatures in Arbetman, Street Law, pp. 7-8. Have students work individually or in small groups and identify laws as being either federal, state, or local. See "Federal, State or Local?" in Unit I: Appendix D at the end of this unit. Teachers may add other laws to the list.

Discuss students' responses. Follow with a discussion. These questions can serve as guidelines.

- Are any of the laws both federal and state or state and local?

  Answers:

  1. state
  2. local
  3. local
  4. federal, local
  5. federal
  6. state

- What are some possible reasons why these laws were made? Do you think these laws are still valid?

- What are other examples of federal, state and local laws? Do you think they are good laws? (If appropriate, discuss the "good" law.)

- What are federal, state and local laws called?

2. Agencies

Point out to students that once federal or state legislatures pass laws, they often authorize administrative agencies to further develop regulations to implement the laws. These regulations have the force of law and influence almost all aspects of our lives.

Some examples are: tax laws - regulated and enforced by the IRS (Internal Revenue Service) and state tax agencies; environmental laws - regulated and enforced by the Environmental Protection Agency on both the federal and state levels. Students may read about agencies in Arbetman, Street Law, pp. 10-11.
Have students suggest some agencies or list several on the board. Discuss the influence of these agencies on our daily lives.

E.g.,
- Occupational Safety and Health Administration (regulates fire exits, employee clothing, height of guard rails in factories, etc.)
- Federal Trade Commission (regulates advertising across the nation, etc.)
- County zoning commissions (regulate in what parts of the county different types of buildings can be built)
- County liquor commissions (regulate sale and drinking of alcoholic beverages in restaurants, liquor stores, nightclubs, and other public places)

3. Citizens

While laws are actually made by the legislatures, agencies and courts, it should also be pointed out that individuals have input into the lawmaking process by exercising their right to vote and to lobby.

The following activities can serve to clarify the importance of voting and lobbying.

a. Invite a person from the League of Women Voters or the Lt. Governor's Office to discuss the importance of voting and the procedures involved in registering to vote.

b. Invite a person from a special interest group (e.g., Common Cause) to speak to the class on the role of a lobbyist or a lobby group in influencing legislators.

Evaluate the above activities by discussing the following questions:

- What did you learn from the speaker?
- What else would you like to have learned?
- How did you feel about the speaker and what she or he had to say?
- How did the speaker's remarks relate to other information you have learned on the same subject?

c. Show the film "An Act of Congress" from the Department of Education film collection. After showing the film, discuss how lobbyists went about making their feelings known to members of Congress and how decisions about the Clean Air Amendment (HR 6161) were made.

d. Have students write letters expressing their thoughts and opinions about a law that is of concern to them. Letters may be addressed to members of Hawai'i's Congressional delegation, state legislature or city council.

e. Students may read about voting and lobbying in Arbetman, Street Law, pp. 9-10.

4. Judiciary

a. Have students suggest what case law is. Point out that law made by courts is called case or common law. Students may read about the courts in Arbetman, Street Law, pp. 12-18 and 24-25.

Hand out "The Court System" in Unit I: Appendix E at the end of this unit. Discuss the structure of the court system, the makeup of power of the U.S. Supreme Court, and how the courts' rulings affect us, e.g., the court's decisions on abortion have the force of law.

b. Have students read "The Supreme Court Affects the Lives of All" in Unit I: Appendix F at the end of this unit.

Review and clarify the following terms prior to the reading: error of law, judicial review, precedent. (Reference: Arbetman, Street Law, pp. 8, 14.)

After students have read the article, use the sample cases in the article for a class discussion on decision-making.

The decisions on the cases are:

- Beef: The meat packers lost this decision. The Court established a "stream of commerce" doctrine under which local business practices which infringe in any way on the freedom of trade among states can come under federal law.
- Fair: The Court ruled that the Fair's ruling was reasonable in that the intent was to maintain order and avoid congestion in a crowded public place. However, individuals could not be forbidden to roam the fair grounds to discuss their views with others.
- Tomatoes: The Court ruled that "in the common language of the people," tomatoes are considered vegetables. The Court also pointed out that tomatoes are served and eaten like vegetables and not like fruits.
- Alaskans: The court ruled that the law was unconstitutional. A state cannot discriminate against non-residents unless they can be proved to be a source of "evil."

c. Have students determine whether the following cases would be tried in state or federal court.

- A husband sues his wife for divorce.

- A group of parents sues the school board for not offering summer school classes in their town.

- A man is prosecuted for beating his neighbor.

- A woman has not paid her federal income taxes for the past three years.

Discuss why these cases would be tried in the particular state or federal court. Also discuss to what court each case could be appealed.

d. Have students read the case of Gideon vs. Wainwright as an example of a court making law by setting a precedent. Or show the film from the Department of Education collection, "Justice Under Law" on the Gideon case.

Refer to the following sources for information about the case.

Arbetman, Street Law, p. 15.

Giller, "Gideon Case," Getting Justice, pp. 104-106.

Leinwand, "The Gideon Case," Civil Rights and Civil Liberties, pp. 75-77.

Lewis, Gideon's Trumpet.

Discuss the following questions:

- In the case of Gideon vs. Wainwright, what was the precedent that was set by the Supreme Court? Who has to follow this precedent?

- Who would have to follow the precedent if the case had been decided by a judge in a state Supreme Court?

- Do you think the Gideon case applies if you are charged with a misdemeanor or if you are sued in a civil case?

- Do you know of other precedents established by the U.S. Supreme Court?

Culminating Activities

1. Legislatures and Lobbyists

Assign students roles as legislators, lobbyists and observers and hold a simulated hearing on a proposed bill that is of current concern or interest. Examples include increasing the driving age to 18 and increasing the age of drinking of alcoholic beverages to 21.

Discuss the following roles:

- legislators: to be neutral or hostile toward the bill that the lobbyists discuss; to ask pertinent questions;
- lobbyists: to convince the legislators that they should support or reject the bill under consideration;
- observers: to record in writing the techniques and interplay between the lobbyists and legislators.

After the role-play, the following may be discussed:

- Was the role-play realistic? If so, how? If not, why not?
- What, if anything, could have been done differently?
- What did you notice about the style of the lobbyists and the content of their arguments?

2. Field Trip

If the legislature is in session, visit and observe the procedures followed. Discuss students' observations and reactions.

LESSON III: INTRODUCTION TO CIVIL PROCESS

Content Concepts

1. Civil Law
2. Civil Justice Process
3. Dispute Settlement

Generalizations

1. Civil Law deals with the private rights of individuals or organizations and conflicts arising from these rights. It includes all areas of law that do not involve criminal matters.
2. Much of everyday life is covered by civil law.
3. Civil law allows individuals to settle their conflicts with other individuals or organizations in court.

Objectives

1. Describe how the courts settle disputes between people.
2. Identify situations in which it might be necessary to consult a lawyer.
3. Explain how to find a reputable lawyer and what questions should be asked at the first interview.
4. Identify the ways in which disputes might be settled out of court and why this is often preferable to going to court.

Vocabulary Words to Know

1. Adversary Process: A contest between opposing sides at trial.
2. Advocate: The role of a lawyer in speaking or acting for his or her client.
3. Arbitration: Parties in a dispute agree to have a third party listen to their arguments and make a decision.

4. Civil Law: All areas of law that do not involve criminal matters.

5. Mediation: Parties in a dispute have a third person act as a go-between to settle the dispute.

6. Negotiation: Parties in a dispute talk about the problem and reach an acceptable solution, with or without a lawyer.

7. Preponderence of Evidence: Evidence in a civil trial that overcomes evidence offered by the opposing side.

Initiating Activity

Have students suggest the general steps taken in criminal and civil cases. To stimulate students' thinking suggest hypothetical situations, such as "What would happen in your case (suppose you're 18 years or older) if you were apprehended for stealing $200,000 from an armored car and killing two guards?" "What would happen in your case after you file a complaint against a supermarket for negligence?"

Hand out "Criminal and Civil Processes" in Unit I: Appendix G. This is a simplified overview of the criminal and civil processes.

Discuss differences between the criminal and civil processes. In civil cases the plaintiff has the burden of proving his or her case by showing a preponderence of evidence (the greater weight of the evidence). In criminal cases the prosecution must show that the defendant is guilty beyond a reasonable doubt.

Developmental Activities

1. Adversary System

   Discuss the adversary nature of the trial system. In the United States the adversary process makes the trial a contest between opposing sides. Discuss: Do you think justice is served by the adversary process?

   Students may read about the adversary system in Arbetman, Street Law, pp. 21-22.

2. Lawyers

   a. Ask students if they think lawyers are necessary. Have them suggest situations when a lawyer may be necessary. Some situations are:

      - buying or selling property;
      - will and estate planning;
      - changing your family status (divorce, adoption, etc.);
      - starting a business;
      - taking care of personal injury or property damage claims;
      - bringing a civil suit against another person or persons;

- defending yourself in a murder trial.

Students may read about lawyers in Arbetman, Street Law, pp. 26-31.

b. Discuss how people can find lawyers. The following are some possibilities:

- recommendation of friend or family member;
- recommendation of other professionals--clergy, doctor, businessperson;
- yellow pages in telephone book;
- Martindale-Hubbell Law Directory in libraries;
- advertisements in newspapers;
- local Bar Association;
- Legal Aid or legal services clinic;
- legal insurance.

c. Have students suggest questions they should ask the lawyer at the time of the first interview. Discuss the importance of asking those questions. The questions may refer to fees for services, lawyer's experience in similiar cases, and keeping you informed about progress of the case.

d. Invite a lawyer to speak to the class on the concept of advocacy for clients, kinds of work that lawyers do, and what clients should expect from their lawyers.

e. Distribute the reading "What Should Ann Do?" in Unit I: Appendix H at the end of this unit. Have several groups of students role-play the initial lawyer-client interview between Ann and her lawyer.

Persons role-playing the lawyer should ask questions to find out exactly what happened, the extent of the injuries and the effects on health and work.

Persons role-playing Ann should provide the lawyer with the necessary information that is relevant to her case and to ask questions about the lawyer's fee, experience in similar cases, etc.

After each role-play, discuss whether or not Ann should retain the lawyer. Does the lawyer seem trustworthy? Does he or she communicate well with the client? Does the lawyer seem experienced in handling this kind of case? Are the fees reasonable?

Students playing the roles of the lawyer may receive additional directions from the teacher, such as to charge very high fees, speak in heavy pidgin, appear to be busy with other telephone calls, etc.

3. Dispute Settlement Out of Court

a. There are disadvantages in taking cases to court, such as the cost and time involved, the backlog of court cases and the resulting publicity. Other alternative methods of resolving disputes include arbitration, mediation, and negotiation. Students may read about these methods for settling disputes in Arbetman, Street Law, pp. 20-21.

Discuss arbitration, mediation and negotiation as means of settling disputes. Distribute "Settling Disputes" in Unit I: Appendix I and have students determine the best method for settling each dispute - arbitration, mediation, negotiation or going to court. Have students explain their answers.

b. Inform students about the Neighborhood Justice Centers which serve as alternatives to the court system in resolving conflicts. These centers are private, nonprofit agencies which mediate conflicts such as consumer-merchant, landlord-tenant, domestic and custody disputes. Mediators help the parties to communicate with each other and to arrive at their own solutions to the problems. Centers are located on O'ahu, Maui and Kaua'i. Students may role-play resolution of conflicts between individuals.

A small group of students may interview persons who work at the Center to find out about the role and work of the Neighborhood Justice Center.

Culminating Activity

Have small groups of students create a problem situation and role-play one of the following:

- search for a lawyer;
- first interview between client and lawyer;
- arbitration process;
- mediation process;
- negotiation process.

LESSON IV: FAMILY LAW

Content Concepts

1. Family Law
2. Marriage
3. Abuse

Generalizations

1. Family law affects every member of society.
2. The American family is changing in size, shape and purpose. Laws are also evolving to reflect these changes in the family.
3. Abuse is a serious problem in the American family and occurs in families of all races and economic levels.

Objectives

1. Describe how the American family and laws pertaining to the family are changing.
2. State the legal requirements for getting married in Hawai'i and analyze and fill out a marriage application.
3. Explain under what conditions an annulment may be granted.
4. Explain what is meant by common-law marriage.
5. Analyze one family problem and examine alternative ways of dealing with the problem.

Vocabulary Words to Know

1. Annulment: The declaration by the court that a marriage never really existed, or was void from the beginning.
2. Common-Law Marriage: A marriage that exists without the couple having gone through a formal application or ceremony.
3. Family Law: The area of law that includes marriage, divorce and child welfare.
4. Marriage: A contract between two people who agree to live as husband and wife.

Initiating Activity

Introduce students to this lesson by discussing marriage and why people marry. The following topics can also be discussed:

- characteristics of the family;
- benefits families provide for society;
- legal aspects of marriage.

Developmental Activities

1. The Changing Family

   Have students suggest how family life has changed and is still changing. Then have them read "The Changing Family" in Unit I: Appendix J at the end of this unit. Discuss the following:

   - Do you think the American family, as an institution, is dying?
   - How is the American family changing?
   - How will these changes affect you?

   Students may read in Arbetman, Street Law, pp. 175-178, or in other texts for further information on the changing roles of husbands and wives.

2. Requirements of Marriage

   a. Have students identify laws dealing with marriage. Discuss possible reasons for the laws and whether or not some of the laws should be changed.

      Call students' attention to the legal requirements of marriage. Point out that every state has its own laws regarding the legal requirements for marriage. In Hawai'i, the following requirements must be met:

      - legal age to marry;
      - single or legally divorced;
      - relationship to each other not closer than first cousins;
      - pass physical tests - blood test, rubella immunization (for females);
      - apply (at Department of Health) and pay for the marriage license;
      - have ceremony performed by a person authorized by law - clergy or judicial official.

b. Have students complete a marriage license application. See Unit I: Appendix K at the end of this unit for an application. If there is an even male-female balance of students in the class, have couples work on the applications together.

Discuss and answer questions that arise. Ask students why they think certain questions on the marriage license application are asked. Point out to students that under Hawai'i law a woman does not have to take her husband's last name when she marries.

Questions for further discussion may include:

- Are the age requirements for marriage fair? If not, at what age should persons be able to marry? In some states, the female age requirement is lower than the male's. Do you think this is fair?
- Why do you suppose government is involved in a matter as private as marriage?
- Do you think government should set requirements for getting married or should this be a matter for individuals to decide?

c. Students may read about marriage in Arbetman, Street Law, pp. 168-178. Questions for discussion may include:

- How have the roles of husbands and wives changed?
- How does the law reflect this change in roles?

3. Annulment

If the legal requirements for marriage are not met, the marriage may be declared void or annulled. An annulment is a court order that declares that a marriage never existed and is invalid.

Ask students if they know what an annulment is and suggest under what conditions a marriage may be annulled. Have students give reasons for their answers.

The following are common reasons for annulment:

- age - one or both persons were underage and did not have parent's permission to marry;
- incest - persons were related to each other;
- fraud - one spouse lied to the other about an important matter, such as a criminal record, or the desire to have children;
- coercion - one spouse forced the other to marry against his or her will;
- physical incapacity - one spouse was incapable of taking part in sexual intercourse;

- bigamy - one spouse was already married.
  (Source: Arbetman, Street Law, p. 172.)

4. Common-Law Marriage

A common-law marriage is established without blood tests, license or a formal ceremony. It is not allowed in Hawai'i. However, thirteen other states do allow this kind of marriage and most states will recognize such a marriage if it were legal where it took place.

In states where common-law marriage is allowed, the following requirements must be met by the couple:

- consider themselves as husband and wife and have this publicly known;
- meet the legal age requirement;
- live together;
- meet other state requirements.
  (Source: Arbetman, Street Law, p. 174.)

Introduce students to this activity by having them respond to the following hypothetical situation.

> Annette Oyape and Bob Miyashiro live together in Lihue, Kauai as husband and wife. They never had a formal marriage ceremony, but Annette signs her name as Mrs. Annette Miyashiro. They have two children, named Amy and Joyce Miyashiro. Are Annette and Bob legally married?

Annette and Bob are not legally married because Hawai'i does not allow common-law marriages. In states where common-law marriages are allowed, Annette and Bob would be legally married and would need a legal divorce if one spouse wants to marry another person.

Discuss the concept of common-law marriage. Questions for discussion may include:

- Should common-law marriage be allowed in Hawai'i? Why or why not?
- What legal problems can occur if one spouse in a common-law marriage dies? (inheritance, property rights, etc.)
- How is common-law marriage different from cohabitation (living together)?

5. Abuses in Families

   a. Spouse Abuse

      (1) Introduce students to this activity by asking them if they know of any examples of abuse in families and what happened to the individuals involved. Have students identify possible reasons why spouses and children are abused.

(2) For an overview of the problem of abuse in families have students read "Black Eyes, Broken Dishes: Violence Stalks Households" in Unit I: Appendix L at the end of this unit.

Questions for discussion may include:

- What is the extent of abuse in American families? Remind students that facts are tentative and subject to change with time and additional information.
- Why have abused family members come "out of hiding" and talked about the abuse they have suffered?
- How does abuse in families affect society (take into consideration both the social and economic costs)?

(3) Spouse abuse cases are handled in different ways from place to place and opinions differ as to how they should be handled. Have students read about the handling of spouse abuse in Arbetman, Street Law, pp. 179-182. Then distribute the worksheet "Is This a Good Idea?" in Unit I: Appendix M at the end of this unit. Have students consider the effects to the victim, family and society and indicate whether they think each is or is not a good idea. Discuss students' responses.

(4) Have students read "Not Guilty" in Unit I: Appendix N. The following questions can be used for discussion:

- Testimony in court showed that Joan had never reported her husband's behavior to the police. What are some possible reasons for this?
- Why do you think Joan killed her husband at the particular time and in that particular manner?
- Why do you think the jury came to this decision? Do you agree with the jury's verdict? Explain your answer.

b. Child Abuse

Examples and definitions of child abuse include:

- physical abuse: beating, battering, locking up;
- sexual abuse: molestation, incest, forcing child to engage in sexual activities for the making of pornographic films;
- neglect: failure to provide basic needs;
- verbal abuse: practice of using harsh and insulting language;
- abandonment: desertion.

Possible causes for child abuse include:

- lack of knowledge of child rearing;
- drug use;

- unemployment;
- lack of emotional control;
- parents were themselves abused.

(1) Discuss the definitions and causes of child abuse. Then have students decide whether or not the following situations should be considered examples of abuse. Have students explain their answers.

- A father beats his ten-year-old son until he is black and blue over much of his body.
- A mother leaves her three children, ages 5, 3 and 2 alone for two days in a high rise apartment.
- A father constantly screams obscenities at his fifteen-year-old son and yells "You can't do anything right."
- A mother is unconcerned about her thirteen-year-old daughter partying all night, as long as she doesn't get into "trouble."
- A mother refuses to allow her children, ages 6, 10 and 15 to attend school.
- A father insists that his 11-year-old daughter have sexual intercourse with him, assuring her that this is a natural way to show affection.
- A father slaps the hand of his 2-year-old daughter as she is reaching for the hot kettle.

(2) There is a reluctance on the part of law enforcement people to interfere in the family affairs of others. Many states, including Hawai'i, now require professionals such as doctors, teachers and social workers to report suspected cases of abuse.

Once a case of abuse is reported, one or more of the following may occur:

- family court hearing;
- counseling for parents (and family);
- child may be placed in foster home.

Discuss the following:

- How should police and the courts deal with child abuse cases?
- Should abused children be returned home?

- Should parents who abuse their children be sent to jail, fined, and/or receive counseling?

(3) Have students read "Father Sued for Childbeating" in Unit I: Appendix O. Discuss the facts of the case and ask students whether they think the lawsuit is justified. Have students explain their answers.

Culminating Activity

The following are some emerging controversial issues that reflect changes in the family and in family law. Students may gather information and present the issues for discussion. The question of the desirability of such changes should be raised and discussed.

- pre-nuptial agreements
- palimony
- homosexual marriages
- surrogate motherhood
- test-tube babies
- emancipation of minors
- joint custody of children after divorce
- alimony based on the future earnings of the ex-spouse
- teenage-pregnancy

UNIT I: APPENDIX A

LAW AND MORALITY

In every mature society, there is considerable overlap between legal questions and moral questions. A man who violates the law against murder likewise violates a moral precept against killing; fraud and theft are condemned not only by courts but also by consciences; in short, law and morals frequently do their work with the very same item of human behavior. In a democratic society like ours where the law reflects many of the people's basic values, this overlap becomes all the more extensive and important. Under the official appearances of deciding the legal issues presented to them, American judges are often required to assess moral interests and resolve problems of right and wrong. It is realistic to look at the law not merely as a technical institution performing various political and economic functions but also as a rich repository of moral knowledge which is continually reworked, revised, and refined.

Source: Cahn, E., The Moral Decision: Right and Wrong in the Light of American Law. Bloomington: Indiana University Press, 1956, p. 3.

UNIT I: APPENDIX B

A MURDER THAT WASN'T REPORTED

On November 3, 1981, 14-year-old Marcy Conrad was murdered in Milipitas, California. A 16-year-old junior at Milipitas High School was charged with strangling Marcy and leaving her body in the hills where some people dump their trash.

The story that shocked the townspeople is not only the murder itself, but the events that took place after the murder. The defendant, Anthony Broussard, boasted of the crime and took several teenagers in his pickup truck to view the body. Other students, hearing about this body in the hills, subsequently went on their own to look.

It was reported that some of the students made bets on whether the body was real or not.

Sgt. Meeker, a detective of the Santa Clara Sheriff's Department, confirmed that a number of young people had gone to look at the body in the two days before anyone reported seeing it.

Only one of the students who saw the body was charged with being an accessory. He went to view the body with the defendant and dumped a garbage bag of leaves on it in an attempt to hide the body. As for the other students, failure to report a body is not a crime in Milipitas.

Source: Wayne King, "Why Didn't Her Classmates Report Her Murder?" New York Times. Reprinted in The Sunday Star-Bulletin and Advertiser, December 20, 1981.

UNIT I: APPENDIX C

DRUNK DRIVER TELLS STUDENTS HOW HE KILLED HIS BEST FRIEND

Jack Smith says he was like hundreds of other students who drink and cruise in cars. But for Smith that life ended when his best friend died in a car crash. Smith was driving.

"I killed him," Smith says, reading from a speech he has been delivering to high school students.

Smith is making the rounds of nine high schools under an agreement with court officials who hope students will learn from the 18-year-old mechanic's experience before this year's season of prom nights and graduation parties.

On Feb. 19, 1981, Smith was behind the wheel of his family's 1975 van. His best friend, Brian Jones, 18, was by his side. A buddy, home on leave from the Navy, and a woman friend were in the back.

The car went off a curve, rolled over a stop sign and two trees, snapped a telephone pole and flipped over. Smith and the two passengers in the back walked away from the wreck. Jones was hurled out of the car.

In his speech, Smith tells how he rolled over Jones's body.

"His eyes were open and they seemed like they were looking right at me."

Smith's personal tragedy was just what Max Lewis was looking for. The assistant district attorney had asked probation officers last year to come up with someone like Smith to talk to students about the dangers of drinking and driving.

Smith was the perfect case. His accident followed a night of partying, complete with an underage friend getting past bouncers to drink in a bar. It ended with death on a curve of a road that Smith was trying to take at 60 miles an hour.

Smith pleaded guilty to vehicular homicide in District Court, where Judge Stark approved assistant district attorney Lewis's idea. Smith also lost his license for four years. An 18-month suspended jail sentence hangs over his head.

"It may be boring to you, but I'm glad to come around," he told a group of students. "It might help somebody else."

"There are times you think that you're not drunk and you really are. Some people get busted for drinking and driving and some don't. The people who don't think 'Wow, the cops didn't catch me,' and they think they're cool. They're not."

Smith also added that besides the vehicular homicide conviction, Jones' parents are suing him in Civil Court for two million dollars.

UNIT I: APPENDIX D

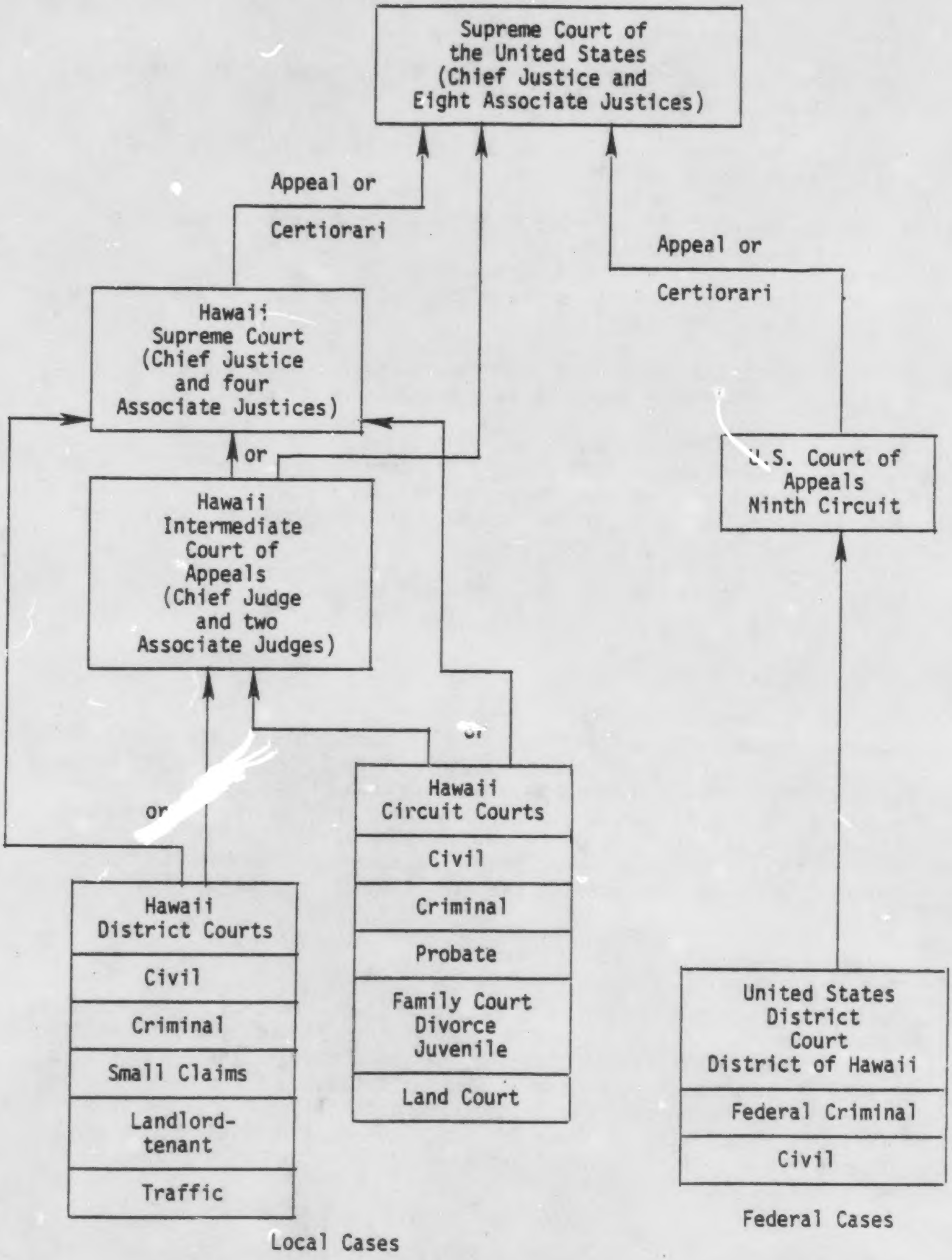
FEDERAL, STATE OR LOCAL?

Directions: Identify the following laws as federal, state and/or local.

1. All persons between the ages of six and eighteen must attend school.
2. In order to sell food on a public street, the seller must apply for and receive a vendor's permit.
3. No parking is allowed on School Street between 5:00 p.m. and 7:00 p.m.
4. No employer of more than fifteen persons may discriminate on the basis of race, color, religion, sex or national origin.
5. All persons traveling on interstate airplane carriers are subject to search before entering the airplane departure area.
6. You must meet an age requirement to apply for a marriage license.

UNIT I: APPENDIX E

THE COURT SYSTEM


Supreme Court of the United States (Chief Justice and Eight Associate Justices)
Appeal or Certiorari
Appeal or Certiorari
Hawaii Supreme Court (Chief Justice and four Associate Justices)
or
Hawaii Intermediate Court of Appeals (Chief Judge and two Associate Judges)
U.S. Court of Appeals Ninth Circuit
or
or
Hawaii Circuit Courts
Civil
Criminal
Probate
Family Court Divorce Juvenile
Land Court
Hawaii District Courts
Civil
Criminal
Small Claims
Landlord-tenant
Traffic
United States District Court District of Hawaii
Federal Criminal
Civil
Local Cases
Federal Cases

Source: Prof. Richard S. Miller, Dean of U.H. Law School

UNIT I: APPENDIX F

THE SUPREME COURT AFFECTS THE LIVES OF ALL

The following are some thorny questions at the heart of the cases which the U.S. Supreme Court will decide.

- Can a state university legally refuse use of its buildings for religious services by a campus group?
- Is a state law which forbids anyone under 17 to play the games in an amusement arcade unconstitutional?
- Can mentally-ill patients in a state hospital be forced to take medicines they do not want to take?
- Do state courts have the power to permanently take away the children of a mother who reportedly does not take proper care of them?

When these questions are answered, state laws, public institutions and citizens will be affected. Decisions of the Supreme Court can strike down or uphold laws made by Congress, individual states or counties. They can correct injustices and overturn rulings made by other courts. Their decisions can affect the lives of everyone.

Below is a selection of past Supreme Court cases.

The Chicago Meat Packers' Beef

In 1890, Congress passed the Sherman Antitrust Act. This Act makes it illegal for companies to get together to form a monopoly that would control prices. Congress acted under authority of Article I, Section 8, which gives it power to regulate interstate commerce. A group of Chicago meat packers claimed that the law did not apply to them since they bought the livestock locally and also prepared and packed the meat locally. The government argued that the law did apply because the cattle came from outside the state and the meat was also sold outside the state. What is your opinion?

Unfair State Fair?

Members of Hare Krishna, a religious group, were told by Minnesota State Fair officials that they could not roam about the fair selling literature or asking for money donations and that they had to remain in their booth at a fixed site. The Hare Krishna members protested that the Fair's ruling violated their First Amendment right to freedom of religion. The Minnesota Supreme Court agreed with the Hare Krishnas. The Fair officials appealed the case to the U.S. Supreme Court and asked them to overturn the Minnesota ruling. What is your opinion?

Tomatoes: Fruit or Vegetables?

In the case of Nix vs. Hedden (1893), the Supreme Court had to decide the meaning of a word in a certain law. The law was a tariff act of 1883 which allowed fruit to be imported duty free while imported vegetables were taxed on the basis of 10% of their value. One importer was charged the duty on tomatoes. He insisted that tomatoes were fruits and not vegetables. He sued and asked the Supreme Court to rule the tomatoes as fruits. How would you decide?

Jobs for Non-Alaskans?

In 1972, the Alaska legislature passed a law that gave preference to qualified Alaska residents over non-residents in hiring for certain jobs related to the building of oil and gas pipelines. The purpose of the law was to cut down unemployment of Alaska residents. Non-residents sued and argued that no state can deny employment privileges to non-residents under Article IV, Section 2. What is your opinion?

Source: Dick Pawelek, "The Supreme Court: Why It Affects the Lives of All," Senior Scholastic, December 11, 1981, pp. 21-23.

UNIT I: APPENDIX G

CRIMINAL AND CIVIL PROCESSES

Criminal	Civil
1. Arrest. Police take person into custody. Booking (making a police report of the arrest) and finger-printing take place.	1. Complaint filed by plaintiff, states the civil wrong done by the defendant.
2. Initial appearance - misdemeanor case. Accused is given copy of complaint and asked to enter plea. Trial date is set and judge either imposes bail or releases the defendant. Initial appearance - felony case. Defendant is informed of charge, advised of his or her rights to a preliminary examination and/or presentation of case to grand jury. No plea is entered.	2. Answer filed by defendant, states the defenses in the case.
3. Indictment or information (formal charge of crime). Prosecutor either takes evidence before jury to get an indictment or has sufficient evidence that an information may be filed.	
4. Pre-trial proceedings. Hearings may be held on motions to dismiss the case, to have evidence ruled inadmissible, or to permit discovery (an exchange of information between the parties). Defendant may enter guilty plea with hopes of receiving a lesser sentence.	3. Pre-trial proceedings. Motions (requests by the parties to the court) are filed requesting discovery.
5. Trial. Presentation of evidence by prosecution and defense.	4. Trial. Presentation of evidence by plaintiff and defendant.
6. Decision. Verdict is made by jury or judge.	5. Decision. Verdict may be by judge or jury.
7. Sentence. Imposition of penalty which may be probation, suspended sentence, restitution, community service, prison term.	6. Judgment. Pronounced by judge in favor of plaintiff or defendant.
	7. Enforcement of judgment. Court forces the person against whom the judgment was pronounced to pay or to do something.

Source: Arbetmen, Lee. Street Law. New York: West Publishing Company, 1980, p. 19.

UNIT I: APPENDIX H

WHAT SHOULD ANN DO?

While shopping in Jordan's Department Store one Saturday afternoon, Ann Larson slipped and fell on a newly waxed floor. Her injuries included a fractured skull, a broken left leg, facial cuts, internal bleeding and recurring headaches. After a five week stay in the hospital and a month's recuperation at home, Ann returned to her $20,000 a year job as an assistant to a publishing firm. However, the headaches she suffered as a result of her fall meant that her job effectiveness was reduced.

The department store's insurance company offered Ann a settlement of $8,000. Ann was uncertain whether she should accept the settlement and decided to consult a lawyer.

UNIT I: APPENDIX I

SETTLING DISPUTES

Directions: In the situations described below decide what would be the best method for settling the dispute -- arbitration, mediation, negotiation or going to court.

1. A father says he will pay all of his daughter's wedding expenses, but changes his mind two months before the wedding.
2. A TV set you bought doesn't work after three weeks and the store manager refuses to repair it or exchange it for another.
3. Your best friends decide to divorce after two months of marriage.
4. The State tax department says you owe an additional $500 in taxes. You insist that you do not.
5. A labor union and hotel disagree over a wage increase for employees.
6. Your landlord refuses to make needed repairs to your kitchen, claiming the guests at your party were responsible for the damage.

UNIT I: APPENDIX J

THE CHANGING AMERICAN FAMILY

The traditional family of two parents and children are now a minority in America. The family as an institution is not dying, but it is changing. In addition to the traditional family, other types of families include one parent families, childless married couples, unmarried couples living together, persons living alone and groups of unrelated people living together.

A growing percentage of married couples feel they don't want any children. In 1955, one percent of wives between the ages of 18 to 24 planned never to have children. In 1976, according to statistics compiled by the Census Bureau, five percent of wives in the same age bracket planned never to have children. Some experts are alarmed at the increase. Others predict that a baby boom may yet occur, although at today's costs (based on 1975 figures) it takes about $50,000 to rear a child to age 18.

The number of divorces has increased and most divorced people remarry, resulting in a restructured family. The new shape of the family now includes a growing number of stepparents, stepsisters and stepbrothers. The increase in divorces also mean an increase in the number of kids who spend some time in single parent families.

Some sociologists say that the high divorce rate is because people today want more from marriage, not less. Studies have shown that women and men want affection, communication, respect and fulfillment within the marriage. If they do not get it, they are more likely than in the past to divorce and try again. In the past, women settled for economic security, men looked to their work or outside activities for fulfillment and stayed together for the sake of the children.

Another view of disrupted families is explained by Mary Jo Bane, a professor at Wellesley College. She argues that the proportion of children affected by parental disruption (death, divorce) has actually declined. She says that deaths of both parents with young children are now very rare compared with the past. And divorced or widowed women in the past often did not have enough money to support their children and had to send them to their relatives or to orphanages. Also, widowed or divorced men rarely tried to raise their children alone. However, today with the increased economic independence of women and the changing role of the father, more children live with at least one parent than ever before.

The shapes of families in the United States cover a wide range. Less than half consists of the nuclear family (mother, father and children); one fourth is made up of childless couples, couples whose children have grown and gone, and women who head households. Another fourth is made up of categories such as communes, unmarried couples, several nuclear families sharing the same house, single persons living alone, single persons sharing the house or apartment to cut costs, and single persons with adopted children. About four percent of families consists of an extended family and include grandparents or other relatives.

The increased number of wives working outside the family is bringing about a change in the power structure of the family and a shift in the role of the husband. Many studies have found that employed women exercise more power, especially in family financial decisions, within the marriage than women who are housewives only. And as the employed women share in the breadwinning, they also expect their husbands to help with the childcare and housework.

Bruno Bettelheim, director emeritus of the Orthogenic School at the University of Chicago, suggests that the most serious problem facing today's family is the gap between reality and expectations of what family life ought to be. He explained that our expectations of what family life ought to be are based on family life in the past where the conditions that made for a cohesive family unit are no longer present. The American family of the colonial past tended to be a farm family whose strength lay in working together as a unit. Children were considered economic assets who helped in the production of goods or services. Many other families who did not farm worked together as a unit in a family enterprise such as candlemaking.

The rise of industrialization saw a shift in the family unit. The family no longer worked as a unit, but individual members left the home to earn money elsewhere. By the mid-nineteenth century, children were no longer assets who were essential to the economic well-being of the family. Instead, they became consumers of goods. The purpose of the family was undergoing a drastic change. It also became a mark of status for men who could afford to have their wives stay home.

The poor, however, always worked. Men, women and children worked about 12 to 16 hours a day. The reality of the past was often very different from our notions of what it was like.

Today, each family unit must find its own purpose and shape a new life and new roles for its members.

(This article is descriptive of the changing American family and does not sanction nor disapprove of the changes currently taking place. Teachers should raise and discuss the question of the desirability of these changes.)

Source: Robbins, Stacia, "The Changing American Family - How Is It Changing?" Senior Scholastic, February 20, 1981, pp. 14-17.

UNIT I: APPENDIX K: MARRIAGE LICENSE APPLICATION

TO BE FILLED OUT JOINTLY BY COUPLE MAKING APPLICATION

(Do not make separate applications for groom and bride.)

REQUIREMENTS FOR OBTAINING A MARRIAGE LICENSE

In applying for a marriage license, both the prospective groom and bride must appear in person before a marriage license agent.

A marriage license is issued immediately after the application is made. After being issued, the license expires *within 30 days* and it is *valid statewide.*

To marry, males as well as females must be at least 16 years of age. Males and females who are 16 or 17 years of age must have the written consent of both parents; or of the legal guardian, or other person in whose care and custody the minor has been placed; or of the family court judge if he has jurisdiction over the minor child. Males and females may marry at age 15 years with the written consent of both parents or legal guardian and the written approval of the judge of the family court. No one under 15 years of age may marry.

Proof of age in the form of a birth certificate or baptismal certificate must be presented to the marriage license agent by any applicant who is under 20 years of age.

A blood relationship between the prospective groom and the bride must not be closer than first cousins.

Each party to the marriage must present a premarital health certificate obtained from a physician. Application for the marriage license should be made within 30 days after the date of serology (blood) test shown on the certificate.

The fee for a license is $8.00 in cash, payable at the time of filing the application.

INSTRUCTIONS FOR FILLING OUT APPLICATION FORM

Please use ink. **Print** information so that it can be read easily. If you have a home or office telephone, give number in left margin. *Do not sign the application until the marriage license agent asks you to do so.* **It must be signed in his or her presence.**

Name of groom and bride. Enter the full first, middle and last names. Do not use abbreviations or initials.

Date of birth. Self explanatory. Do not use numbers.

Usual residence. Give street address, if any and enter the name of the city or town in full and the *county.* If no street address, enter name of town or village. Mailing address may be used but must be enclosed in parenthesis after the name of the town or village. DO NOT USE MAILING ADDRESS ALONE.

Place of birth. Give city or town and state or city or town and foreign country.

Father and mother. Enter full first, middle and last names without abbreviations or initials. For mother, enter full maiden name. After *Living?* state "yes" or "no", or "unknown".

If you are a minor without parents, give name of guardian in space provided in left margin.

Blood relationship of groom to bride. Generally, the entry here will be "none".

In what county do you plan to be married? Honolulu County, Hawaii County, Maui County, or Kauai County.

Name of marriage officiant. Person who is to perform the marriage ceremony.

Number of this marriage. Self explanatory.

If previously married. State how your last marriage ended—i.e., by death, divorce or annulment. Then enter the date and place of the death, divorce or annulment.

Race. Use such terms as Japanese, Caucasian, Negro, Hawaiian, etc.

Occupation. Give your usual occupation, such as: carpenter; bookkeeper; student; sales clerk; auto mechanic; soldier, U.S. Army; sailor, U.S. Navy; officer, U.S. Army; Navy; etc. (Give kind of work done during most of working life, even if retired).

Education. Enter the number of the highest grade completed in "regular" schooling in the space for elementary/secondary or college.

Note: Do not enter any other kind of schooling or training. While beauty and barber schools, business or trade schools, and the like, are important, they are not considered "regular" schools for the purpose of this item.

Confidential Information. Information on previous marriage, race, occupation and education is confidential and will not be reproduced on certified copies of your marriage certificate but used for statistical purposes only.

PLEASE PRINT

Your marriage record is vital. Be sure the information you give is complete and accurate.

STATE OF HAWAII
DEPARTMENT OF HEALTH
RESEARCH & STATISTICS OFFICE

MARRIAGE LICENSE APPLICATION

TO BE FILLED OUT BY COUPLE MAKING APPLICATION

DO NOT MAKE SEPARATE APPLICATION FOR GROOM AND BRIDE
(Please read instructions on reverse side of this form)

LICENSE NO. ________________

GROOM

Your telephone:

Home ________________

Office ________________

Name of guardian:

____

1a. FIRST NAME OF GROOM	b. MIDDLE NAME		c. LAST NAME	2. DATE OF BIRTH (Month, Day, Year)
3. USUAL RESIDENCE: a. STREET ADDRESS, CITY OR TOWN	b. COUNTY		c. STATE OR FOREIGN COUNTRY	4. PLACE OF BIRTH: City & State or Foreign Country
5. FATHER: a. FULL NAME			b. STATE OR FOREIGN COUNTRY OF BIRTH	c. LIVING?
6. MOTHER: a. FULL MAIDEN NAME			b. STATE OR FOREIGN COUNTRY OF BIRTH	c. LIVING?

BRIDE

Your telephone:

Home ________________

Office ________________

Name of guardian:

____

7a. FIRST NAME OF BRIDE	b. MIDDLE NAME		c. LAST NAME	8. DATE OF BIRTH (Month, Day, Year)
9. USUAL RESIDENCE: a. STREET ADDRESS; CITY OR TOWN	b. COUNTY		c. STATE OR FOREIGN COUNTRY	10. PLACE OF BIRTH: City & State or Foreign Country
11. FATHER: a. FULL NAME			b. STATE OR FOREIGN COUNTRY OF BIRTH	c. LIVING?
12. MOTHER: a. FULL MAIDEN NAME			b. STATE OR FOREIGN COUNTRY OF BIRTH	c. LIVING?

Blood relationship of groom to bride:	In what county do you plan to be married? (Honolulu, Hawaii, Maui, or Kauai County)	Name of Marriage Official

CERTIFICATION

SIGN BEFORE MARRIAGE AGENT

We, the undersigned, certify that the information given in this application is true and correct to the best of our knowledge and belief. Written consent of court is attached, if under jurisdiction of court or under age 16.

.... SIGNATURE OF PROSPECTIVE GROOM

.... SIGNATURE OF PROSPECTIVE BRIDE

Sworn and subscribed to before me this .... day of ...., 19 ......

.... MARRIAGE LICENSE AGENT

.... *Judicial District, State of Hawaii*

FORWARDING ADDRESS:
(After Marriage)

CONFIDENTIAL INFORMATION—PLEASE COMPLETE (For Statistical Purposes Only)

SUPPLEMENTARY DATA	NUMBER OF THIS MARRIAGE	IF PREVIOUSLY MARRIED, LAST MARRIAGE ENDED.				RACE	OCCUPATION	EDUCATION—Specify Highest Grade Completed	
	FIRST, SECOND, ETC. (SPECIFY)	BY DEATH, DIVORCE, DISSOLUTION OR ANNULMENT (Specify)	DATE ENDED		PLACE ENDED (COUNTY & STATE)			Elem. or Secondary	College
			MONTH	YEAR				(0-12)	(1-4 or 5+)
GROOM	25.	26a.	26b.		26c.	27.	28.	29.	
BRIDE	30.	31a.	31b.		31c.	32.	33.	34.	

RS-8 Rev. 1/78 IF UNDER 20, PLEASE BRING PROOF OF AGE IN THE FORM OF A BIRTH CERTIFICATE OR BAPTISMAL CERTIFICATE. INTENTIONAL FALSIFICATION IS A MISDEMEANOR

UNIT I: APPENDIX L

BLACK EYES, BROKEN DISHES: VIOLENCE STALKS HOUSEHOLDS

by Janice Wolf

Violence.

It had been part and parcel of their relationship from the first day of their Las Vegas honeymoon 13 years ago. He'd gotten furious with her for some long-forgotten reason and had taken a glass ashtray and smashed it into the hotel room wall.

"Way back then, all kinds of warning lights were flashing," Carol said. "He'd started yelling that he hated my guts and was going to throw me on the next bus back to my parents' house in California. Somehow, the whole incident got turned around, and I ended up crying and begging him for forgiveness."

The warning lights were still flashing a year later, when he angrily broke a dining room chair after he "caught me parking the car in the driveway instead of pulling it into the carport."

And they were flashing when, after the birth of child No. 2, all the crying got on his nerves and he put his fist through the shoji door in the den.

And when he screamed at her over the bridge table and in front of company, leaving her mortified or in tears--or both.

"He always dealt with his anger by hitting something or by some overpowering explosion," Carol said. "I never knew what would set him off and I'm not sure he did either. The kids knew instinctively when to stay out of daddy's way. I kept saying, 'As long as he hits chairs and not me'. . ."

But one day a few years back, "It was me--he broke my jaw."

Two black eyes, a fractured rib and a wrenched back later, Carol filed for divorce.

Ironically, there was little to distinguish Carol's decree from the thousands of others filed last year in Family Court.

The proceedings were uncontested and unspectacular. Carol got custody of the kids. He got "reasonable visitation." He didn't even show up for the hearing.

Why did she wait for 13 years?

"The kids," she said. "He'd say, 'You can get your a-- out of here but the kids stay.' Or 'Leave and I'll tell the judge you abandoned the kids and you'll never see them again.' For a long time, I believed him."

Stories like Carol's, rather than being unusual, are turning up with chilling frequency both here and on the Mainland.

"Physical violence develops between family members more often than it does between any other individuals or in any other setting except for wars and riots," observed University of New Hampshire sociologist Murray Straus.

Statistics compiled by the National Institute of Mental Health paint a telling picture:

- Some form of domestic violence--spouse-against-spouse, parent-against-child, sibling-against-sibling and even child-against-parent occurs in one out of every two American households.
- About 50 million persons every year are physically harmed by members of their own families.
- Spouse abuse occurs among 16 percent of American married couples.
- Each year, 6.5 million children are abused by parents or other family members.
- And 8 million children--18 out of every 100--assault their parents.

In Hawaii, the Shelter for Abused Spouses and Children served 311 families last year--937 individuals.

"I hear about 20 new stories a week," says Marybeth Webster, psychologist and director of the Divorce Clinic.

"Pretty close to half the women coming to the Divorce Clinic reported some sort of violence. It is justifiable that we are seen as the most violent nation on earth."

Webster said about a quarter of the women who file for divorce through the clinic "have taken years of beatings and not until it spills over to the child will they leave."

"One woman got her first beating from her husband when he found out she was pregnant," Webster said. "When he pushed her down the stairs, she left."

Webster also said a number of women have sought divorce because of sexual molestation of the children.

"Violence in the family has been a hidden phenomenon until recently," wrote Nancy Kreidman and John Brekke in their grant proposal for Komo Mai, a new support-group program for men who abuse their spouses.

"The sanctity of marriage, the implied privacy and inviolable nature of what goes on within 'the home,' have created a situation which in the past discouraged interference by others and minimized the amount of attention given to the problem.

"Women, who are most often the victims, have begun to come out of isolation--in fear and in desperation--to tell their stories and seek help."

It's noon and a half dozen women are brown-bagging it around a meeting room table.

The women belong to Abused Women Anonymous. They share a legacy of black eyes and broken bones, of verbal and emotional abuse inflicted on them by their husbands.

They are at various stages of hurting and healing. Joyce Hunter, whose work with spouse abuse victims earned her the Jefferson Award in 1979, is the coordinator.

Lee, involved in a bitterly contested divorce hearing in Family Court, is angry because the court homestudy was not as favorable toward her as she would have liked and she fears her son's custody will be awarded to her husband.

Hunter is warming Lee to the possibility of accepting a shared-custody arrangement. But Lee this day is not to be cajoled or consoled.

"He's broken my bones," she says, "but you don't go into court and say you were beaten. You go in there and say, 'On Wednesday at 3:33 exactly, he beat the s--- out of me.' You'd better have it exact. Dates and times."

"It took seven weeks to get a restraining order. And then there were many violations. Once my husband came and kicked down the door. The police came but nobody was caught in the act (of being abusive). What the police were saying was that my husband had a right to break down the door.

"I don't know what to do. The anger comes from telling the truth and having no one believe you."

Donna, who left her husband of more than 15 years, said she felt particularly hamstrung about calling the police for help. Her husband is a police officer. She says she's glad to be out.

"After it was over, I couldn't believe it was as bad as it was," she said. "As I stand back and look, it was pretty bad. Pretty doggone bad."

Says Mary: "Ten years ago he broke my nose; three years ago he broke my hip. I kept wondering how I ever got into this situation. I thought perhaps I wanted it, maybe even that I deserved it. I had my own problems, my own weaknesses."

Reprinted with permission from The Honolulu Advertiser, March 1, 1981.

UNIT I: APPENDIX M

IS THIS A GOOD IDEA?

Directions: Consider the consequences of the following acts to the victim, family or society and decide whether each is a good idea or not. Explain your answers.

1. Police should be trained in handling abuse cases.
2. The abused spouse may leave home temporarily for an abused spouse shelter.
3. Some states allow for criminal prosecution for spouses who abuse their mates.
4. Some states allow the abused spouse to sue the assaulting spouse for money damages.
5. Some states have family immunity laws, which make it impossible for husbands and wives to sue each other for money damages.
6. In some highly publicized cases wives who have been abused by their husbands over a long period of time have killed their husbands. Juries have rendered verdicts of either not guilty or justifiable homicide.

Refer to Arbetman, Street Law, pp. 179-182 for information about the handling of spouse abuse.

UNIT I: APPENDIX N

NOT GUILTY

Joan Howe, 34, had been beaten by her husband Robert over the past eight years. One night, he cornered her by the dishwasher and punched her. She smashed through the screen door and escaped to a neighbor's home. The next morning Robert went to the neighbor's home and promised Joan that if she returned home he would never hurt her again. However, two weeks later, Robert was screaming obscenities, gave Joan a severe beating and blackened one of her eyes. Later that night as Robert slept, Joan poured gasoline under his bed and ignited it, thus killing Robert. When the case came to trial, testimony showed that Joan had been mentally and physically brutalized by Robert since the beginning of their marriage. The jury acquitted Joan of the murder charge.

Questions for discussion:

1. Testimony in court showed that Joan had never reported her husband's behavior to the police. What are some possible reasons for this?
2. Why do you think Joan killed her husband at the particular time and in that particular manner? Do you suppose she had other ways of solving her problem?
3. Why do you think the jury came to this decision? Do you agree with the jury's verdict? Explain your answer.

UNIT I: APPENDIX O

FATHER SUED FOR CHILDBEATING

Christine Nielson, after much soul-searching and many discussions with her husband and five sisters, sued her father for $1 million for beating her as a child. She decided to send a message to her father and to the public after she read about 2-year-old Fleanice Gray who was beaten to death by her parents.

Nielson claims that her face was disfigured for life as a result of the beatings. She has had three operations but they have not restored her face to normal. Her teeth do not meet and the right side of her face is caved in.

Nielson said that beating alters a child's life and that as a child she lived in constant fear and was afraid to go home from school. She said her father first beat her at age four and continued to beat her for the next ten years until she was placed in a foster home. She said she ran away from the foster home at age sixteen and was a prostitute in Wisconsin for two months. Nielson feels that with proper upbringing her life would have been different.

Aldo Botti, her attorney, said the suit charges that she has suffered "great pain and mental anguish" and that she has "incurred medical, dental and psychiatric costs" as a result of the beatings.

Adapted from Maurice Possley, "Childbeating by Daughter," Chicago Sun Times. Reprinted in Honolulu Star-Bulletin, March 2, 1981.

UNIT I MATERIALS FOR STUDENT LEARNING

BOOKS:

Arbetman, Lee, Edward McMahon and Edward O'Brien. Street Law: A Course in Practical Law. New York: West Publishing Company, 1980.

Freifeld, Wilbur and Frank Toddeo. The Legal Facts of Life. New York: Dutton Books, 1982.

Krause, Harry. Family Law in a Nutshell. New York: West Publishing Company, 1981.

Sussman, Alan and Martin Guggenheim. The Rights of Parents. New York: Avon Books, 1980.

Swiger, Elinor. Law in Everyday Life. Evanston, Illinois: McDougal-Littell, 1979. (paper)

PAMPHLETS:

Hawaii Legal Auxiliary. The Laws Are Yours. Honolulu, 1981.

STUDENT MAGAZINES:

Bill of Rights Newsletter, published by Constitutional Rights Foundation.

Update, published by American Bar Association three times yearly.

Senior Scholastic

FILMS FROM HAWAII STATE DEPARTMENT OF EDUCATION, AUDIOVISUAL SERVICES UNIT:

An Act of Congress	7371
Appellate System	7088
Authority and Rebellion	6355
Lobbying: A Case History	7139
Municipal Court	7152

OTHERS:

Daily newspapers

Newsmagazines

Law dictionary

UNIT II: THE NATURE AND CAUSES OF CRIME

Overview

Crime has been a major problem in America for a long time and the costs of crime in lost or damaged lives and property, suffering, fear and money affect us all. The causes of crime are varied and complex and the solutions are not simple.

Lesson I examines the difference between criminal and non-criminal behavior, the extent of crime in America and Hawai'i, and the causes, costs and solutions to crime. It also looks at victim compensation programs and how people can protect themselves from being victimized.

Lesson II examines crimes against the person, such as assault, battery, homicide and rape. Students are asked to analyze situations in which crimes against the person have been committed and to express an opinion on the issue of gun control.

Lesson III examines crimes against property, which is the most common kind of crime in the United States. The areas of study include vandalism, shoplifting and stealing.

Lesson IV examines controversial crimes. Controversial crimes include those offenses that are considered to be against society in general and often involve issues of personal conduct, public health, or social welfare. The areas of study in this lesson include drug and sex offenses.

UNIT II: THE NATURE AND CAUSES OF CRIME

Content Concepts

1. Crime
2. Crimes Against the Person
3. Crimes Against Property
4. Controversial Crimes

Generalizations

1. Criminal acts are prohibited in order to protect life and property, to maintain our system of government, to preserve individual freedoms and civil rights, and to uphold society's moral values.
2. The causes of crime are varied and complex and the solutions are not simple.
3. There are various levels (seriousness and degrees of severity) of crimes depending on the circumstances of each offense.
4. Property crime is the most common kind of crime in the United States.
5. Controversial crimes include those offenses that are considered to be against society in general and often involve issues of personal conduct, public health, or social welfare.

Objectives

1. Identify and explain some causes of crime and discuss various ways a community can protect itself from crime.
2. Demonstrate several ways to protect oneself from criminal attacks.
3. Analyze a series of acts and determine whether they should be considered as criminal acts.
4. Develop social studies skills: interpret crime statistics from a chart.
5. Analyze situations in which crimes against the person have been committed.
6. Evaluate the arguments for and against gun control and express an opinion on this issue.
7. Explain possible reasons for the increase in property crimes.
8. Identify some controversial crimes and explain why these acts are considered controversial.

LESSON I: THE NATURE AND CAUSES OF CRIME

Content Concepts

Crime

Generalizations

1. Crime is behavior for which the state has set a penalty and affects us all.
2. Criminal acts are prohibited in order to protect life and property, to maintain our system of government, to preserve individual freedoms and civil rights, and to uphold society's moral values.
3. The causes of crime are varied and complex and the solutions are not simple.
4. The success of crime victim compensation programs depends upon the availability of money and people's attitudes toward society.

Objectives

1. Identify and explain some causes of crime.
2. Identify and discuss various ways which a community can protect itself from crime.
3. Demonstrate several ways to protect oneself from criminal attacks.
4. Analyze a series of acts and determine whether they should be considered as criminal acts.
5. Develop social studies skills: interpret crime statistics from a chart or data.
6. Take a stand on the issue of compensation for crime victims and support the stand with reasons.

Vocabulary Words to Know

1. Accessory After the Fact: Person who knows a crime has been committed and helps the principal escape or avoid capture.
2. Accessory Before the Fact: Person who orders or helps plan a crime, but is not actually present when the crime is committed.
3. Accomplice: Person who helps another commit a crime.

4. Crime: An act that breaks a criminal law that has been made for the public good, and is punishable by public law.

5. Felony: A serious crime, punishable by imprisonment for more than a year.

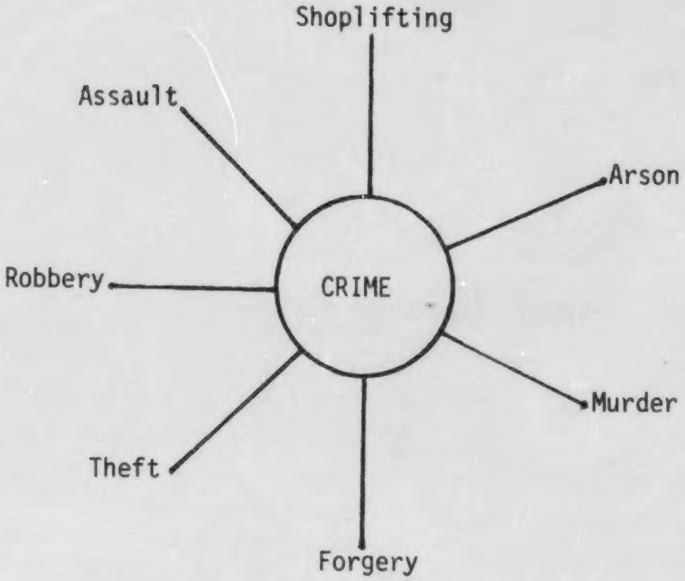
6. Misdemeanor: A crime less serious than a felony, punishable by fine or imprisonment for one year or less.

7. Principal: Person who commits the crime.

Initiating Activity

Introduce students to this lesson by asking them to identify all the crimes they can think of. Write students' suggestions on the chalk board.

E.g.,



Discuss: What is crime?

Then have small groups of students categorize the crimes into the following: (1) felonies, (2) misdemeanors, (3) crimes against people, (4) crimes against property, and (5) controversial or victimless crimes. Some crimes may fit under more than one category. It may be necessary to discuss the meanings of the categories.

Discuss the groups' categories and their reasons for placing the items in those categories. Then discuss the following questions:

- What makes these acts criminal?

- Which crimes are considered more serious than others? Why do you think they are considered more serious?

- Why do you think acts such as these are prohibited by law? (Possible responses: to protect life and property, to preserve individual freedoms and civil rights, to maintain order and our system of government and to uphold society's moral values. (Source: Arbetman, Street Law, p. 33.)

- Do you think (your county or the state) has a serious crime problem?

Developmental Activities

1. Criminal or Non-Criminal

Distribute "Series of Acts" in Unit II: Appendix A at the end of this unit. Have students work in small groups of three to five persons. Ask students to pretend to be members of the Crime Commission which has been established to evaluate laws. As crime commissioners they are to do the following:

- Discuss a series of acts and, in each case, decide if the act should be treated as a crime.

- Rank order the criminal acts from the most to the least serious.

- Discuss the reasons for their decisions.

Chart the results of each group's discussion on the board before discussing the following questions:

- Is there agreement as to what offenses are serious crimes? What do these crimes have in common?

- Are offenses against people or against property considered the more serious?

- What offenses should be considered misdemeanors? felonies? Explain your answer. (If necessary, review the definitions of misdemeanor and felony discussed in the suggested initiating activity of this lesson).

- What do you think the punishment should be for each offense? (Individual students may volunteer or be assigned to check the Hawaii Revised Statutes for the punishment for each offense and share the information with the class.)

2. Parties to Crime

Clarify the following terms: principal, accomplice, accessory before the fact, accessory after the fact. (Refer to Arbetman, Street Law, pp. 39-40.)

Have students read "Parties to a Crime" in Unit II: Appendix B and identify all the parties to the crime.

Inform students that Tim is not a party to the crime. Discuss: Why do you think Tim did not report the crime? Do you think Tim has a moral obligation to report the crime?

3. Extent of Crime

   a. Have students guess which areas have the most and the least crimes - metropolitan areas, rural areas, or small cities. Encourage students to give probable reasons for their answers.

      Hand out "Crime Rate by Area." See Unit II: Appendix C at the end of this unit. Students may discuss the following:

      - What is meant by "crime rate?"
      - Which area has the highest crime rate? the lowest crime rate?
      - Which crimes are committed most? committed least? Are there differences among the areas? Can you think of any reasons for these differences?

      For further information, students may read in Arbetman, Street Law, p. 36.

   b. Distribute "Crime Rate Drops 3.3% in Islands" and "Oahu Serious Crime Dips 14%." See Unit II: Appendix D and Unit II: Appendix E at the end of the unit.

      Questions to discuss may include the following:

      - What is the most frequently committed crime?
      - What crime showed the biggest drop between 1980 and 1981?
      - What are some possible reasons for the decrease in crime on O'ahu?

4. Causes and Solutions of Crime

   Have students work in small groups and list all the possible causes of crime they can think of. Encourage students to clarify or explain their answers. The following are some possible answers: drug abuse, poverty, greed, little chance of being caught or punished, influence of television, unemployment, breakdown in morality, lack of parental guidance, growing population, lack of education, no religious values, peer group influence, family upbringing, etc.

   Have students agree on the most important reasons and rank order them.

   Discuss the following questions:

   - What are some possible solutions to crime?
   - Should we have tougher laws?
   - Should the punishment be harsher?

   Have students read in Arbetman, Street Law, pp. 37-38, or in other resources about the causes of crime. The resources should present a wide range of the causes and solutions to the crime problem.

5. Victims of Crime

   a. Introduce students to this activity by having a discussion centered on the following questions:

      - Do you know anyone who has been the victim of a crime? What was the nature of the crime?

      - How was the person affected by the crime? How was the family affected?

      - What kinds of people do you think are the victims of crime?

      - What do you think can be done in any community to protect people from crime?

      Discuss the following: Do you think a community owes victims of crime some kind of compensation? If so, why? If not, why not?

      Students may read "Crime Compensation" in Unit II: Appendix F at the end of this unit.

   b. A small group of students may gather information on Hawai'i's victim compensation laws and report the information to the class.

   c. Discuss how people can protect themselves from becoming easy targets of crime. Show the film "Mugging: You Can Protect Yourself," available from the Department of Education and Hawaii State Library film collections.

      Students may demonstrate the specific methods shown in the film to ward off a threatening attack.

6. Costs of Crime

   Have students suggest the costs and effects of crime and list them on the chalk board. Responses may include lost or damaged lives and property, suffering, money, fear. Point out that many people live in fear of crime. Discuss the effects of fear of crime. Possible answers include: reluctance to go out of the house, greater public support for police, increasing criticism of the criminal justice system, demand for harsher sentences for criminals, increase in gun ownership, increase in use of security devices and private security guards.

   The fear of crime exceeds the reality of crime. About 40 percent of the U.S. population live in fear of violent crime, but only a very small percent become victims of violent crime. (Source: Senior Scholastic, November 14, 1980, p. 7.) Discuss reasons for the increase in fear of crime and what we can do to reduce this fear.

Culminating Activity

Students in small groups may gather additional information on one of the topics studied or related topics, present the information and conduct a class discussion.

It may be necessary to teach some of the following techniques:

- how to prepare a lesson plan;
- how to lead an effective class discussion;
- how to use audio-visual props and equipment;
- how to use eye contact and body language.

It may also be necessary to provide guidelines to help students gather information. For example:

- Is the information relevant to your topic?
- Is the information current?
- Is the information based on facts or opinions?
- What is the author's frame of reference?

LESSON II: CRIMES AGAINST THE PERSON

Content Concept

Crimes Against the Person.

Generalizations

1. Crimes against the person are serious offenses and include homicide, assault, battery and rape.
2. Our society regards homicide as the most serious of all crimes.
3. There are various levels (seriousness and degree of severity) of crimes depending upon the circumstances of each offense.

Objectives

1. Identify and describe several examples of crimes against the person.
2. Identify the different categories of homicide.
3. Analyze situations in which crimes against the person have been committed.
4. Explain what constitutes rape and ways in which an individual can protect him/herself.
5. Evaluate the arguments for and against gun control and express an opinion on this issue.

Vocabulary Words to Know

1. Assault: An attempt or threat to carry out a physical attack on another person.
2. Battery: Any unlawful, unconsented physical contact by one person upon another.
3. Homicide: The killing of one human being by another.
4. Malice: The intent to kill or seriously harm.
5. Premeditation: Previous planning or deliberation.
6. Rape: Forced sexual intercourse without consent or sexual intercourse with a minor.

Initiating Activity

Introduce students to this lesson by asking them to suggest crimes which would belong to the category "crimes against the person." List their suggestions on the board. Have students define the crimes.

Ask students to rank the crimes from most serious to least serious. Have students give reasons for their ranking.

Inform students that there are different levels of crimes. For example, homicide includes the following categories:

- first degree murder: premeditated, deliberate, done with intent to kill;
- second degree murder: not premeditated, but deliberate and done with malice;
- voluntary manslaughter: intentional, committed under circumstances that lessen but do not justify or excuse the killing;
- involuntary manslaughter: Unintentional killing that results from reckless behavior;
- negligent homicide: causing death through criminal negligence;
- noncriminal homicide: Justifiable or excusable killing, such as killing in self defense, killing of enemy soldier in wartime, etc. (Source: Arbetman, Street Law, pp. 43-44.)

Have students suggest probable reasons for such classifications.

Discuss: Do you think having such classifications is fair? to whom?

Developmental Activities

1. Homicide

Have students read in Arbetman, Street Law, pp. 43-44, or other resources about the major categories of homicide. Clarify students' questions about the categories. Then have students identify the category of homicide in each instance below. The teacher may add other examples of homicide.

- A thirty-year-old woman used a handgun to kill a man who broke into her home and attempted to rape her.
- On seeing his wife in bed with another man, the husband grabbed a kitchen knife and killed the man.
- The children of a wealthy industrialist planned for a year how they would kill their father, and finally carried out their plan by poisoning his food.
- Ralph, after leaving a party, killed a pedestrian when he sped through an intersection in his car.

2. Assault and Battery

The different categories for assault and battery are:

- aggravated assault: a physical attack with intent to murder, rob, rape, or do serious bodily harm;
- simple assault: any attempt or threat to physically attack another person;
- battery: an unlawful or unconsented physical contact by one person on another.
  (Source: Arbetman, Street Law, p. 45.)

a. Discuss the categories of assault and battery or have students read in Arbetman, Street Law, p. 45. Then ask students to determine which of the following are simple assault, aggravated assault or battery. Have students explain their answers.

- Purse snatching.
- Breaking a person's arm during a fight in school.
- Threatening the football coach.
- Robbing Bank of Hawaii with a toy gun.
- Getting even with your girlfriend by trying to run her over with your car because you saw her with another guy.

b. Point out to students that a large number of assault cases involve handguns.

(1) Have students discuss the pros and cons of gun control. Students may gather their own information or read the following:

- "Handguns: Should the U.S. Restrict Manufacture, Sale and Possession?" Senior Scholastic, September 4, 1981, pp. 10-14.
- "Gun Control" in Unit II: Appendix G.

(2) Point out to students that two small towns in the U.S. have taken opposite views on handguns. One town in Illinois has outlawed possession of handguns and one town in Georgia has required residents to own handguns.

Have students read "A Gun in Every Home" in Unit II: Appendix H at the end of this unit. This reading may be used as a springboard to discuss the pros and cons of requiring or outlawing handguns.

3. Rape

a. Point out to students that rape in the U.S. is at epidemic levels. Discuss the following questions. Encourage students to express their opinions and acknowledge all who participate in the discussion.

- What is rape? (statutory rape, forceable rape)
- What are some causes of rape?
- Why has there been an increase in rape cases?
- Do you think people can protect themselves against rapists?

Students may read in Arbetman, Street Law, pp. 46-47 for a fuller definition of rape and recent changes in some state laws to make the laws applicable to both men and women. The older common law definition of rape refers to the female as the victim and the male as the offender.

Have students read the following articles. These readings can be used as springboards for a class discussion.

- Unit II: Appendix I: "Stopping Rapists," located at the end of this unit.
- Unit II: Appendix J: "Getting Tough On Rape," located at the end of this unit.
- Unit II: Appendix K: "Rape," located at the end of this unit.

b. Show the film "How To Say No To A Rapist And Survive," available from the Department of Education film collection. This film is a recorded lecture by Frederic Storaska, author of the book of the same title. The film captures his unique ability to instill confidence and dispel anxiety, myth and embarrassment that often surround the subject of rape.

c. Show the film "No Exceptions," available from the Hawaii State Library film collection. Using dramatized situations and interviews, this film deals with simple but effective methods to use to avoid getting into a situation of possible jeopardy, what to do if raped, and steps to take afterwards if rape should occur.

d. Invite a speaker from the Police Department or from a sex abuse center to talk on rape prevention, prosecution and punishment of offenders.

Culminating Activities

1. Newspaper Activity

   Have students find examples of crimes against the person in newspapers. Students may do one of the following:

   a. Oral Report

      Cite the source and date of one article, summarize the content and give personal reactions to the article. Class discussion may follow.

   b. Written Report

      Assemble several articles in a notebook. Each article should have the source, date, a summary and personal reaction. A specific identification of the crime, such as homicide in the first degree or simple assault, should also be included.

2. Gather Information

   Have small groups of students find out the penalties in Hawai'i for persons convicted of homicide, assault and rape. Refer students to the

   Hawaii Revised Statutes which should be in every school library. The findings should be reported to the class and discussed. The following can also be discussed:

   - Do you think the laws are too strict? too lenient?

   - Do you think any changes should be made?

LESSON III: CRIMES AGAINST PROPERTY

Content Concept

Crimes Against Property

Generalizations

1. Crimes against property include crimes in which property is destroyed or stolen.
2. Property crime is the most common kind of crime in the United States.

Objectives

1. Identify and describe several examples of crime against property.
2. Identify and explain possible reasons for the increase in property crimes.
3. Analyze and explain the financial and social costs of the high rate of property crime.
4. Explain what constitutes shoplifting and vandalism under Hawai'i's laws and identify the attendant criminal penalties.

Vocabulary Words to Know

1. Arson: Willful and malicious burning of another's property.
2. Burglary: Unauthorized entry into a building with the intent to commit a crime.
3. Embezzlement: The theft of money entrusted to one's care.
4. Extortion: Use of threats to obtain the property of another, blackmail.
5. Forgery: Crime in which a person alters a writing or document with intent to defraud.
6. Larceny: Unlawful taking and carrying away of the property of another with intent to steal it; theft.
7. Robbery: Unlawful taking of property from a person's immediate possession by force or intimidation.
8. Vandalism: Willful destruction of, or causing of damage to another's property.

Initiating Activity

Introduce students to this lesson by having them define the concept "crimes against property" and giving examples of these crimes. Examples may include arson, burglary, embezzlement, extortion, shoplifting, etc. Have students suggest the costs of these crimes to society. Point out to students that property crime is the most common kind of crime in the United States.

Students may read about the various property crimes in Arbetman, Street Law, pp. 47-51.

Developmental Activities

Activities for vandalism, shoplifting and stealing are provided. Teachers may also study other areas depending on the interests of the students.

1. Vandalism

   a. Focus the discussion around the following questions. Encourage students to share their knowledge and opinions.

      - What is vandalism?
      - Why do you suppose acts of vandalism are committed?
      - What are the consequences of vandalism to the vandal (if caught)? to society?
      - How can vandalism be curbed?

      Have students read "Vandalism on Campus" in Unit II: Appendix L at the end of this unit. Students may read about state statutes on vandalism in school in Hawaii Revised Statutes, Vol. 4, 1981 Supplement. Honolulu, 1981, Sec. 298-27. The statute states that any student who commits vandalism against school property may make restitution in any manner, including monetary restitution by the pupil or pupil's parents.

   b. Show the film "The Boy Who Liked Deer," available from the Department of Education and Hawaii State Library film collections.

      Before showing the film instruct students to look for the acts of vandalism shown in the film and the reasons for the vandalism.

      The following questions may be included in a discussion after the viewing of the film.

      - What acts of vandalism did you see in the film?
      - What were the reasons for the vandalism?
      - How was Jason punished for his acts of vandalism? Do you think he received a fair punishment?

2. Shoplifting

   a. Discuss the following questions. Encourage students to participate in the discussion.

- What is shoplifting?
- Why do you suppose people shoplift?
- Does shoplifting affect you? What are the costs of shoplifting?
- What is the punishment in Hawai'i if a person is convicted of shoplifting?

Have students read "You're Subsidizing the Shoplifter" in Unit II: Appendix M at the end of this unit.

b. Show the film and/or filmstrip described below.

Film: "Shoplifting, Sharon's Story," available from the Department of Education and Hawaii State Library film collections. This film shows what happens to Sharon, a teenager, after she shoplifts a jewelry item from a department store.

Questions to discuss may include:

- Why did Sharon shoplift?
- What happened to her from the time she was arrested until her parents came to the police station?
- What were the consequences of Sharon's shoplifting?

Filmstrip: "Shoplifting," available from Prentice-Hall Media. This is a two-part sound filmstrip program which represents both the shoplifters' and the retailers' viewpoints on the subject and examines the costs in both money and morality.

Questions to discuss may include:

- What are some common reasons why people shoplift?
- What is a kleptomaniac?
- What is STEM (the anti-shoplifting campaign)?

c. Have students read "Is Stealing Becoming OK?" in Unit II: Appendix N.

Questions for discussion may include:

- How have attitudes toward stealing changed?
- Is stealing OK? If something is stolen, is the victim at fault?
- What is the extent of stealing in our school? in our community?
- What are the costs to individuals of a society in which stealing is prevalent?

d. Invite a speaker from the business community to talk about the problem of shoplifting and the steps taken by the stores to combat shoplifting. Topics for discussion may include costs of shoplifting to consumers and effectiveness of the STEM program.

Culminating Activity

Have students report and discuss recent cases and examples of shoplifting, vandalism or other crimes against property. Analyze the possible causes of the crimes.

LESSON IV: CONTROVERSIAL CRIMES

Content Concept

Controversial Crimes

Generalizations

1. Controversial crimes include those offenses that are considered to be against society in general and often involve issues of personal conduct, public health, or social welfare.

2. Although some offenses are referred to as victimless crimes there is controversy over whether they are truly victimless.

Objectives

1. Identify some controversial crimes and explain why these acts are considered controversial.
2. Analyze and evaluate the arguments for and against the legalization, decriminalization or criminalization of given acts based on individual and societal values.
3. Explain the difference between decriminalization and legalization of a given act.

Vocabulary Words to Know

1. Adultery: The act of sexual intercourse between a married person and someone other than his or her spouse.

2. Bigamy: Having two or more husbands or wives at the same time.

3. Controversial Crimes: Offenses over which there are disagreements about whether or not these acts should be considered as criminal acts.

4. Decriminalization: The making of criminal penalties less severe.

5. Homosexuality: The condition of being sexually oriented to someone of the same sex.

6. Legalization: The making of previous criminal acts lawful.

Initiating Activity

Introduce students to this lesson by having them define the word "controversy." Write students' answers on the board.

Have students suggest some controversial crimes. Possible responses include possession of small amounts of marijuana, bigamy, adultery, homosexuality, prostitution, suicide, euthanasia. (Source: Arbetman, Street Law, pp. 52-54.)

Inform students that some people feel that these acts are private and should have no criminal penalties, while others feel there should be penalties for these acts. Encourage students to express their own opinions.

Developmental Activities

1. Sex Offenses

   a. Have students discuss the meanings of the following terms: adultery, prostitution, homosexual acts.

      Students may read in Arbetman, Street Law, pp. 53-54, for an explanation of these offenses.

      Ask students if they think these acts should be considered criminal offenses. Point out to students that for the most part these acts are private, between consenting individuals, and are unenforceable. Also inform students that although these acts involve personal behavior or conduct, some people think that they are offenses against public decency and morality. The following questions may be used for further discussion.

      - Do you think government should have the right to regulate the private behavior of people?
      - Why do you think we have laws relating to sexual behavior?

   b. Have students discuss why they think prostitution is a crime in Hawai'i. Inform students that some people advocate the decriminalization, not legalization, of prostitution. Ask students if they know the difference between decriminalization and legalization of prostitution.

      Have students read "Decriminalization or Legalization?" in Unit II: Appendix O. Discuss the following:

      - What is the difference between decriminalization and legalization of prostitution?
      - What are the arguments for decriminalization of prostitution? What are the arguments against?
      - Which groups do you suppose would prefer to keep the existing criminal codes regarding prostitution? What are their arguments?
      - What do you think?

2. Drug Offenses

   Some drug offenses are considered controversial crimes. For example, some people feel that possession of small amounts of marijuana should be decriminalized. Decriminalization would not make possession of marijuana legal but would make the penalties less severe, such as a fine, but no prison sentence. (Source: Arbetman, Street Law, pp. 52-53.)

Discuss: Do you think the sale, possession and use of marijuana should be decriminalized for adults? for teenagers? for children?

Have students read "The Changing Attitudes Toward Marijuana" in Unit II: Appendix P at the end of this unit.

Questions for discussion may include the following:

- What is the difference between legalization and decriminalization of marijuana? How would the use of marijuana change in either case?
- Do you think that the use of marijuana increases crime and juvenile delinquency?
- No state has decriminalized marijuana for the past few years. Why?

Students may read in Arbetman, Street Law, pp. 52-53, for further information on drug offenses.

Culminating Activities

1. Gather Information

Have students find out and report to class the criminal penalties in Hawai'i if a person is convicted of a controversial crime such as prostitution. Discuss the penalty: Do you think it is fair? Do changes need to be made in the law?

2. Analyze Newspaper Articles

Have students bring to class articles describing controversial crimes. Analyze and discuss the circumstances, punishment, etc., of the crimes.

UNIT II: APPENDIX A

SERIES OF ACTS

Directions:

I. Decide whether each of the following should be treated as a crime. Discuss the reasons for your decisions.

II. Rank order the criminal acts from the most to the least serious. Discuss the reasons for your decisions.

A. John is truant from school for ten days.

B. Liz refuses to pay federal income taxes because she does not believe in the government's policy of spending money for an arms buildup.

C. The Neigra Chemical Company pollutes a river with wastes from its production of fertilizer.

D. On his return from the Big Island, Jack is caught with two pounds of marijuana.

E. Joe rapes Susan while holding a knife at her throat.

F. Adam and Josh are homosexuals who have lived together for the past ten years as if they were married.

G. Kimo is a narcotics addict who pushes heroin on a street corner in Waikiki.

H. Jill approaches Brian for purposes of prostitution.

I. Lisa holds up a local bank with a small handgun.

J. Mary beats up her two-year-old son Jason because she is tired of hearing his constant crying.

K. Laura sees her friend Beth shoplifting a necklace but does not report her.

L. Bert beats up Walt in a disco because Bert thinks Walt is trying to steal his girlfriend.

UNIT II: APPENDIX B

PARTIES TO A CRIME

Jack and Diane decide to rob Quality Jewelers. Their friend Brian, who works at Quality Jewelers, gives them information about the location of the store's safe. On the night of the robbery, Diane drives a car to the store and keeps a lookout while Jack goes inside and breaks open the safe. Later that night, Jack contacts his friend, Steve, who was not involved in the robbery. Steve decides to help Jack get out of town. Tim, a fellow employee of Diane's, witnesses the crime as he is driving home, but does not go to the police with any information about the robbery.

UNIT II: APPENDIX C

CRIME RATE BY AREA

Crime Rate by Area, 1978 (Rate per 100,000 inhabitants)

CRIME INDEX OFFENSES	TOTAL UNITED STATES	METRO-POLITAN AREA	RURAL	SMALL CITIES
Total	5,109.3	5,870.2	1,997.9	4,363.9
Violent	486.9	583.9	174.8	285.4
Property	4,622.4	5,286.3	1,823.1	4,078.6
Murder	9.0	9.9	7.5	5.2
Forcible rape	30.8	36.7	14.0	15.7
Robbery	191.3	249.2	20.9	50.1
Aggravated assault	255.9	288.1	132.3	214.4
Burglary	1,423.7	1,626.7	746.3	1,031.7
Larceny-theft	2,743.9	3,101.1	953.3	2,812.4
Motor vehicle theft	454.7	558.6	123.5	234.5

Source: Arbetman, Lee, et al., Street Law. New York: West Publishing Company, 1980, p. 37.

UNIT II: APPENDIX D

CRIME RATE DROPS 3.3% IN ISLANDS

Hawaii's overall crime rate continued to decline in this year's (1982) first quarter despite a slight increase in violent crime, the Hawaii Criminal Justice Information Center announced yesterday.

A 3.5 percent drop in the number of non-violent crimes from the same three months of last year resulted in an overall decrease in crime of 3.3 percent, the center said.

Mainly because of small increases in the numbers of rapes and robberies, violent crimes reported to police rose by 2 percent, totaling 612--a dozen more than during the same period last year.

There were five murders during this year's first quarter, compared with 13 in the first quarter of 1981. And there were 126 reports of aggravated assault, the same number recorded last year.

The number of rapes rose from 72 to 74, and the number of robberies from 389 to 407 accounting for the overall increase in the violent crime rate statewide.

Violent crime went up in two counties this year--Oahu, by 6.6 percent, and the Big Island, by 7.3 percent. It declined by 22 percent on Maui and 60 percent on Kauai.

There were 15,661 non-violent crimes during this year's first quarter--most of them burglaries and larcenies--compared with 16,236 last year.

Only the Big Island posted an increase in non-violent crimes during the period, rising from 1,291 to 1,420 or 9.9 percent. The declines in the other counties were 5.1 percent for Oahu, 0.1 percent for Maui and 7.6 percent for Kauai.

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UNIT II: APPENDIX E

OAHU SERIOUS CRIME DIPS 14%

by Walter Wright

Honolulu ranked No. 2 in the nation in crime reduction last year, cutting serious crime by an unprecedented 14 percent, a review of FBI statistics revealed yesterday.

And Deputy Police Chief Harold Falk said last night that serious crime was continuing to decline in 1982.

Only Chattanooga, Tenn., had a better record among cities of more than 100,000, with serious crime down 15.4 percent.

On Honolulu's heels was the Southern California city of Oxnard, with a 13.9 percent reduction, trailed closely by Fort Wayne, Ind., with 13.2 percent.

This remarkable tale of four crime-fighting cities comes against a nationwide background of no change in overall crime statistics from 1980 to 1981. But about two-thirds of the larger cities had increases.

From the snowy streets of Chattanooga and Fort Wayne to the sunny shores of Southern California and Hawaii, there were varied explanations for the good news last night.

Chattanooga Times City Editor Barney Morgan said local lawmen thought "maybe it's good cooperation by ordinary folks with the law enforcement people, and part of it, they say, was probably the cold weather, which was so oppressive it kept people inside.

"We do have a new burglary task force created here last spring, and although they don't seem to be taking any credit, it might be a contributing factor," Morgan said.

Another possible factor: Chattanooga, a heavy industry town of 150,000 highly dependent on the auto industry, has the highest unemployment in any of the cities in the major metropolitan areas in the state.

In Fort Wayne, they've also had lousy weather, a depressed economy and improving crime statistics.

The new police chief, David Rieman, says both the economy and better police work are factors.

International Harvester, one of Fort Wayne's biggest employers, has cut its work force from 10,000 to less than 5,000 in two years, a noticeable dent in a city of 170,000.

"There's a good deal of unemployment, people leaving and moving to other areas," Chief Rieman said. "I think that would cause crime to go down.

There are fewer targets, and maybe fewer people inclined to commit crime."

Rieman disagrees with the notion that hard times breed crime. "No one ever proved that if you're out of a job you're a thief," he said. "In Fort Wayne, there's less to steal and fewer people to steal it. And the 13-25 age group, responsible for most criminal activity, is declining here."

Chief Rieman, shivering through another spring snowstorm following Fort Wayne's recent floods, says his department has a lot to do with the cuts.

He has put more men on the street, reducing some command personnel and office-type jobs, and launched an intensive stolen property recovery operation.

In Oxnard, about 40 miles south of Santa Barbara, Police Sgt. Denny Phillips, watch commander, says things are looking up in the farm-based community of about 150,000.

"Unemployment has been running about 9 percent, probably higher when you count the large number of illegal aliens, migrant workers who come in. Our population is about 50 percent Latin. About two or three years ago there was what you might call white flight.

"Probably some of the richest people in the world and some of the poorest live here. We've got an ideal climate, we're on the ocean, it's a great place to live. But it was starting to get a reputation for problems that I wasn't proud of."

Today, after the second straight year of crime reduction, "people are talking and acting more positive."

Two big factors in Oxnard, Sgt. Phillips said, are a career criminal prosecution system and a task force attack on crime problems pinpointed quickly by crime trend analysts.

"When they went after street robberies, they went down almost to zero."

There was a sting operation in Oxnard a few years ago without much success. "A lot of the stolen property finds its way across the border into Mexico," Phillips said.

In Honolulu, the crime cuts can't be attributed to cold weather or a recession.

Deputy Police Chief Falk says it's "a combination of things falling into place:

- "First, public awareness of crime--that's an obvious one. People are more disturbed and more aware of what's going on in their neighborhood. We notice that by the calls we get.
- "Second, more criminals are being sentenced to prison, and the sentences are running a little longer than they used to." That

observation echoed Prosecutor Charles Marsland's report this week that imprisonment of career criminals in Honolulu is up 29 percent in 1981, and career criminal sentences of more than a year is up 12 percent.

- "Third, we in the police department have to take a little bit of credit. We are paying more attention to street crime, we have more special details on the street doing different things, without being specific about exactly what we're doing."

It is, said Falk, "not just the prosecutor, and not just us. It's a combination, the people, the police, the prosecution and the courts--everything is just falling into the right place."

Falk said the department also was making different use of the personnel it has, and had gradually added 100 officers over the past year.

He said he doubted that the economy was a factor. Even though tourism had a flat year, "economic experts say we haven't felt as much of the recession as the Mainland has."

The deputy chief warned that the improvements were fragile. After more than a year of declining numbers, it gets harder to keep up the statistical improvement.

"I'm not going to start standing up and waving the flag yet. Those of us who do the job are happy at what's happening, but we realize that at any time it can turn around," Falk said.

SERIOUS CRIME

	Honolulu				U.S.
	1980	1981	Change	%	%
Murder	65	40	-25	-41.6	-3
Rape	264	265	+1	0.0	-1
Robbery	1,729	1,320	-409	-23.6	+5
Assault	398	340	-58	-14.5	-2
Total Violent	2,456	1,965	-491	-20.0	+1
Burglary	13,848	12,576	-1,272	-9.1	-1
Theft	36,189	31,362	-4,827	-15.3	0
Auto Theft	5,225	3.645	-1,580	-30.2	-4
Total Property	55,262	47,583	-7,679	-13.8	0
TOTAL	57,718	49,548	-8,170	-14	0

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UNIT II: APPENDIX F

CRIME COMPENSATION

In 1972, Robert Barrett, a bank manager, along with seven other people were taken as hostages by bank robbers and held for fourteen hours. He was unable to get an injection of insulin during his captivity and as a result, he lost one leg and now must spend fifteen hours a week on a kidney dialysis machine to clean the toxins from his blood.

Nine years later, in 1981, he was awarded $20,000 by the state of New York as compensation for his suffering as a victim of crime. Robert explained that most of the money will go to pay his medical bills.

The idea of compensating crime victims has become popular in recent years. It started in California in 1965.

How do the programs work? Depending on the state, victims of violent crimes are eligible to receive money to cover doctor, hospital or other medical bills that have not been paid by insurance. Victims may also be eligible to receive money that was lost because they were unable to work as a result of the crimes committed against them. None of the programs will pay if the victim was assaulted by a close family member. The victim must usually submit detailed proof of need for the money and must cooperate with the investigation and any hearings and trials that result. Almost all states have maximum limits on the amount that a victim may receive.

Not all victims benefit from crime compensation programs. Many victims, especially the poor and minorities, do not report assaults or other violent crimes because they do not believe the system will work. They don't believe that the police or anyone else will help them.

Other victims do not know about the programs and are not prepared to go through the paperwork required to be eligible for assistance.

A failing in some states is the length of time between the crime and payment of compensation. In California, which receives about 1,000 claims a month, a victim may wait up to nine months or more. New Jersey has a backlog of four years. Robert Barrett of New York received his payment after nine years.

The biggest problem facing many crime victim compensation programs is money. In Tennessee the crime victim compensation program went broke.

Many state legislatures are authorizing restitution to victims, but the money to compensate the victims is not available.

Some critics of the crime compensation programs feel that government should focus on restitution by criminals rather than government payment to victims. Advocates of the crime compensation programs point out that restitution does not help victims whose attackers are not caught and convicted. And even if the criminal is caught, the person may be unable to pay if he or she is poor and unskilled, as a large percentage of criminals are.

The life or death of crime compensation programs will depend on people's attitudes about society.

Source: Jones, Peter M., "Victims of Crimes: Does Society Owe Them Compensation?" Senior Scholastic, March 5, 1982, pp. 8-10.

UNIT II: APPENDIX G

GUN CONTROL

The issue of gun control is an old American controversy. One side is calling for strict control of the manufacture, sale and possession of guns. Another side views gun control as an abridgement of the constitutional right to own guns for purposes of self defense, sport and hobby. The following are some reasons and viewpoints for and against gun control.

For

1. Every year about 10,000 people are killed by handguns in America. Nearly three fourths of these are committed by family members or acquaintances.
2. Gun control will reduce the violence now plaguing much of the nation.
3. We are now a mass society with the tensions and frictions a mass society produces. In such an environment, guns are going to be used for illegal purposes.
4. Guns are the instruments of crime.
5. The Second Amendment to the U.S. Constitution has to do with the right of the states to maintain state militias and has nothing to do with individuals owning guns for their own purposes. Not every person should be allowed to own any type of gun. There should be some controls over the manufacture, importation and possession of guns.
6. Handguns accounted for almost half of the homicides in 1979.
7. Contrary to popular opinion, a handgun in the home does not give protection against crime. People are more likely to provoke the criminal, and thus more likely to be shot, if they display a gun or when they reach for one.

Against

1. The major concern should be with crime, not gun control. A gun is neither good nor bad. The guilty party is the criminal, not the gun.
2. The residents of ghettos and areas where the police have given up on crime need guns for self protection.
3. Istead of restricting the sale of guns to law-abiding citizens, the insane and the criminals who violate the laws should be locked up.
4. It's better to be in a position to protect oneself than to be a helpless victim.
5. Gun control does not reduce crime, just discourages the law-abiding citizens from owning them.

Gun Control in Hawai'i

As of June 24, 1981, anyone buying a gun has to be photographed and fingerprinted. The present law makes owning a gun tougher and gives police more information about the person buying the gun. There is also a 10-15 day waiting period between the application and issuance of a permit.

Police can now make a better background check of the applicant. A gun purchaser must fill in a questionnaire which asks whether he or she has been treated for mental illness or disease.

Police have also set up a screening procedure which allows them to check whether the applicant has had psychiatric treatment within the state hospital system.

An applicant is also asked to name his or her private physician. If police have reason to believe that the buyer might have been treated privately for mental illness, the law provides access to his or her medical records.

Under the new state law, those convicted of any "crime of violence," including misdemeanors as spouse beating, and felons can be denied permits.

The owner of a gun shop says that the law restricts 99 percent of the population to keep the "nuts and crazies" from misusing guns. He feels this is an infringement on the rights of the law-abiding.

The chairperson of the Handgun Control Committee of the Schutter Foundation stated that the possesssion of handguns by any person in the state, with the exception of authorized military and law enforcement personnel, should be prohibited. Citizens may be allowed to own handguns if they are securely stored at a licensed pistol range and used only at that range, or if the guns are antiques or collectors' items with the firing pin removed.

Sources:

"Handguns: Should U.S. Restrict Manufacture, Sale and Possession?" Senior Scholastic, September 4, 1981, pp. 10-13.

Oley, Marc, "Control Needed on Handguns," Honolulu Star-Bulletin, October 29, 1981.

Oshiro, Sandra, "New Gun Law: A Lifesaver or Infringement?" The Honolulu Advertiser, November 11, 1981.

UNIT II: APPENDIX H

A GUN IN EVERY HOME

Georgia's Kennesaw City Council unanimously passed a law requiring a gun in every home. The Council passed this law in response to the outlawing of handguns in Morton Grove, Illinois. The Council members felt that it was ludicrous for any city or county to take away the rights of its citizens to bear arms.

In defense of the ordinance, Kennesaw's mayor stated that a firearm is the most effective means of self-defense.

Kennesaw's police chief also defended the law and said he felt it would deter crime in Kennesaw. He said that although the town has a low crime rate, robberies did increase in 1981.

Officials in Morton Grove didn't think highly of Kennesaw's law. An administrator of Morton Grove said that one problem in this country is a proliferation of handguns. He commented that civilized society depends on laws, police and the judicial systems to protect the community and ordering citizens to arm themselves infers that society is in dire trouble.

Source: "Town Law Requires Gun in Every Home," United Press International, Honolulu Star-Bulletin, March 18, 1982.

UNIT II: APPENDIX I

STOPPING RAPISTS

The following is based on an interview with Dr. Ner Littner, a practicing psychiatrist for more than 25 years. He has lectured and written about the subject of rape and has rapists as patients.

Research suggests that all rapists are emotionally ill and/or mentally retarded. The act of rape is their way of handling stress. Rapists are people who were scarred as children by something that went wrong and they never got over it. The most serious scars are caused by things that happen to children when they are one year old or younger. When these scars are stirred up, they rape. The scars may be stirred up by any kind of pressure the person can't handle, such as job pressure or the death of a father.

These childhood scars may have nothing to do with sex. They can be caused by abuse by the parent or by having a mother who was emotionally incapable of caring for her child.

Research indicates that about 97 percent of rapists do not rape a second time. Their own act of rape so disturbed them that they henceforth express their emotional disturbance in other ways. But the other 3 percent will continue to rape. The act of rape may not give them pleasure, but it does satisfy their tensions.

The police and the courts cannot solve the problem by themselves. The police cannot apprehend all the rapists and there is nothing in the criminal justice system to help them once they are caught.

Castration of rapists has been suggested as one solution. However, this does not solve the cause of the problem and does nothing to stop other deviant sex acts.

Parents play a vital role in preventing their children from becoming rapists. They should realize that children, even young babies, are human beings at their most sensitive level. Parents should fully express their love and support for their children from the very early ages and not take out their own frustations on them.

We must break the cycle of having more and more emotionally disturbed adults creating more and more emotionally disturbed children.

In the meantime, we can lock our door, be very careful on the street and realize that the emotionally disturbed people need help for all our sakes.

Source: Roger Simon, "How Can We Stop Rapists?" Chicago Sun Times. Reprinted in Honolulu Star Bulletin, November 28, 1979.

UNIT II: APPENDIX J

GETTING TOUGH ON RAPE

by Beverly Creamer

"You'll walk out of here," joked police officer Annelle Amaral, "and punch the first guy you see." She smiled, and the crowd of women, jammed into the auditorium at Kaiser Hospital, giggled. The scattering of men managed smiles too, but looked a little uncomfortable because this was predominantly a women's topic and the message from the Honolulu Police Department was mainly for women. Rape is about as ugly as it comes. It's ugly and brutal, and it scars lives. To combat it, you need to know what it means, what laws affect it and what to do if it should ever happen to you.

The HPD has been giving the informal seminars all over town in a valiant attempt to educate the public about every aspect of rape, a crime that leaped by 50 percent over the summer months alone.

In 1978, there were 187 rapes reported to the department. Of that number, 69 suspects were arrested, 37 cases went to court and three people went to jail, says Amaral. "And you wonder why we get so upset when we talk about rape?"

The three-hour session--the first to be so comprehensive--covers the definitions of sex crimes, the penalties, the treatment of victims (including what to expect if the case goes to trial), self-defense against attempted rape and ways to make yourself safer in your home and your community. It also includes a chilling film that interviews both rape victims and convicted rapists.

It's a broad-ranging subject and Amaral and her partners, police Sgt. Robert Ganzagan and Wendy Chin, a social worker intern from the Sex Abuse Treatment Center at Kapiolani Hospital, cover it doggedly and thoroughly. And they don't pull punches.

They are delighted to schedule seminars for community groups, businesses, anyone who calls the department's Community Relations Division, which designed the course and operates the department's speakers' bureau. It's Amaral who's the fireball behind the course, and whose impassioned and often eloquent spiel rattles your teeth. "I think because I'm a woman I'm more conscious of the issue of rape," she says. "And I think it's important that we start talking to people about it."

She stalks back and forth in front of her audience, exhorting women to report rapes, demonstrating defense techniques and scaring you out of your wits.

"She's TERRIFIC," whispered one nurse to the woman sitting next to her at the recent workshop for the Kaiser staff.

She's also tough. "You are important," she tells the women," and you have to learn to take care of yourself, you can't always depend on someone else.

"Strengthen your grip," she advises. "Get out and exercise. And when you walk down the street, walk with confidence. Some men thrive on the terror, so you have to bowl them over with bravado."

Rape, explains Amaral, is a crime of violence, not sex. "We have victims as young as 6 months and as old as 87. The rapist can be your husband, your lover, your ex-boyfriend . . . Rapists are as young as 13 or as old as in their 80s."

Half the rapes committed take place in the home, says Amaral, and many go unreported simply "because there is a lot of guilt involved." The majority of those women in Hawaii who DO report rapes are Caucasian and in their 20s.

"The more rapes that are reported, the more serious it seems as a crime to the community," she explains. What follows then is greater community support for efforts to fight rape.

Because so many rapes take place in the home, the department offers a free public service--residential security checks. "If you call, we'll come out and check out your home," said Amaral.

The police department makes several recommendations for improving a home's safety:

- "Put the best locks money can buy on your doors," says Amaral. "We recommend dead-bolt locks, with a double-key system."
- "Put glue on your louvers . . . Ever since we started putting louvers in, burglars have had a field day." Take each louver out, explains Amaral, put a glue such as Epoxy along the edge and put it back in. "But leave da buggahs open (till they dry) or you'll never get them open again."
- "With sliding doors, fill in the space at the top, otherwise you can lift it off--and the guy is in."
- Make sure your outside doors are solid. "Those doors with the facades are pretty but they're easy to break in."

Aside from burglar-proofing your home, you can take other precautions to avoid putting yourself in compromising situations, say the officers. For instance, if your car breaks down on a dark highway at night, don't stand outside flagging passersby, says Ganzagan. "Put up the hood, put on your flashing emergency lights, lock yourself inside" and wait for a police officer to come by.

Always, say the officers, be aware of your surroundings. When you are walking down the street, walk in the middle of the sidewalk, and notice who is around. Is someone following? Does someone seem to be paying more attention to you than seems normal?

Basically, says Amaral, she wants to get across to women a single message: You can't take your safety for granted. " I need to get women to wake up. This isn't the safest place in the world. You can't just walk around wherever you want."

If you ARE grabbed, say the officers, there are several things you can do immediately to try and get away. You can urinate, or defecate, said Ganzagan. Or "act crazy" or "tell him you have VD or tell him you're pregnant. Or you can start praying."

"One woman recently in Waimanalo did all the right things," he said. "She did all those things and they didn't work so then she started praying out loud and he backed off and pushed her out of the car.

"And then she had the presence of mind to take his license number."

If you fear he means to kill you, say the officers, and he is unarmed, then you should fight. "If you've got this gut reaction that you're gonna die, then use all the means you have available to defend yourself," said Ganzagan.

But, they add, if you choose to fight, do it swiftly and suddenly and don't hang around to see what he's going to do next. "If you're going to fight, make it count," says Amaral. "If you start the biting, the scratching, and the pulling of hair all you're doing is enraging your attacker.

"They tell you you have an arsenal in your purse." Amaral continues. "Don't believe that nonsense. What, you're gonna burn him to death with your lighter?"

The crowd giggled again.

"But you DO have a weapon, your purse. Put your pet rock in it before you go out at night. Use it to hit him in the face and he will come to a stop. Believe me, pain does that to people. Or, hit him up the side of the head. And RUN."

Amaral goes over how to deliver blows to the vulnerable areas of the body--the eyes, nose, throat, solar plexis and groin, but recommends that women strike out for the latter, simply because it's an easier target and not so easily missed. All you need, she said, is a sharp tug, a squeeze, to stop anyone dead.

She also goes over quick techniques of breaking a hold and loosening a grip: If he has an arm around your throat, turn your head so you can breathe--in order to get away, she said, you need to be able to breathe; if he has a hand over your mouth, pull down on his pinkie finger and that will force him to move his hand; if he has grabbed your wrist or arm, jerk it in the direction where his thumb meets his other fingers because that's the weakest part of a grip. Once you're out of his grip, run, say the officers.

"If you have to fight three or more," says Amaral, "my advice is don't fight. If there are two, you have to drop one to fight the other."

Amaral puts rapes in four categories: the "hot prowl--the burglar there to take your TV and he takes you too;" the casual acquaintance or "date rape . . . this gets reported least often because there's so much guilt involved," the violation of basic common-sense rules . . . the rape that takes place, for instance, when the woman is hitchhiking, or jogging in an unfamiliar place; the rape of passion, an assault by an ex-lover, an ex-boyfriend, an ex-husband.

"If this is a man who has been your voluntary social companion in the past 12 months, you cannot bring a charge of rape in the first degree," explains Amaral. The charge would be second-degree rape, which carries a 10- to 15-year sentence rather than a 20-year sentence.

Ganzagan, who worked for many years on the rape investigation team, takes the floor part way through the seminar to explain the normal investigative procedure. Nowadays, he says, the victim is not interviewed by the officer called to the scene of the crime. The first--often most difficult interview for the victim--is done by staff members of the Sex Abuse Treatment Center at Kapiolani Hospital.

This, he said, helps minimize the trauma. Still, the victim is called upon to describe what happened, to give a physical description of her assailant if she can, to undergo a physical examination, which includes photos of her condition, and to try to identify her assailant either from a police line-up or mug shot file.

Then the victim must testify at a preliminary hearing, or perhaps before the grand jury. A staff member from the Sex Abuse Center normally accompanies her.

None of it is easy, admitted Ganzagan. And it can't really be done away with, because then there is no case.

And does the city prosecutor's office prosecute rape cases aggressively? he is asked.

Ganzagan pauses. "Oh boy," he said, "I'm going to get in trouble here."

Then he adds: "I like to think rape is a top priority."

According to both officers, the pattern among sex offenders is to begin with minor offenses and become progressively more dangerous. Rapists, they say, often start as exhibitionists.

"Child molesters start as flashers," says Amaral. "They will hang around the schools . . . If someone comes home (from school) and says there's a guy around the school dropping his pants, get up on your high horse and get down there," she says. "Call the school administration . . . call the police . . . We have to get these guys off the streets."

If possible, say the officers, don't send little children into a public restroom alone. And always, they say, be sensitive to behavior changes in your child. Is he suddenly not eating? Is he having nightmares? Is he clinging to you? Does he seem to be regressing in age?

"If you have a child with a problem, find out what it is," says Amaral, herself a mother.

But before such things arise, talk about safety to your child, she advises. "Don't worry if you're going to bring reality into his life, because something else could be far ruder."

Reprinted with permission of The Honolulu Advertiser, February 8, 1980.

UNIT II: APPENDIX K

RAPE

Victims of rape range in age from two months to over 90 years. The circumstances vary--the woman sleeping alone in her bedroom or working in her garden, the early morning jogger in the neighborhood, the elderly woman on her way home from a visit to a friend, the young girl on her way home from school.

One study found that almost half the rapes occurred in the victims' homes and almost half the rapists were previously acquainted with their victims.

Experts believe that the increase in rape may be due to increased reporting as well as an actual increase in the number of rapes committed. A small but increasing proportion of rape victims are male.

Most rapes, about 90%, go unreported for various reasons. In some cases, the victim may feel ashamed or she may be unwilling to undergo police questioning. In other cases, she may be afraid of retaliation by the rapist.

Rape leaves a psychological scar on many victims. They may become depressed, fearful, unable to work effectively or develop marital problems.

Rape is not primarily a sexual act. It is motivated by anger and a need to control. Contrary to what many people think, rapists are not "starved" for sex.

Rapists often choose victims who are vulnerable, such as the elderly, the young, women who are overly trusting or depressed, or fail to notice danger signals. About 25% of rape victims have been previously raped.

Important to the victim's emotional recovery is the amount of empathy and support she receives from her family and friends.

Many places have volunteer rape crisis centers or hot lines to help and counsel rape victims. Talking with a trained counselor can be very beneficial and help the emotional recovery of the victims.

Source: Brody, Jane E. "The Fast-Growing Violence of Rape," New York Times. Reprinted in the Honolulu Star-Bulletin, October 22, 1980.

UNIT II: APPENDIX L

VANDALISM ON CAMPUS

Vandalism in our nation's schools adds up to a loss of about $600 million a year. Other dollar costs include the repair of the damage and the additional costs of providing for the security of school buildings. There are emotional costs as well. The efforts to curb vandalism also tend to foster resentment and a "prison" image of the schools.

Across the nation, various devices and precautions are being used to secure school buildings from vandals. These include high fences, wire-mesh screens over windows, burglar alarms, double locks on doors and increased security patrols.

However, elaborate security systems may backfire on the schools. They present a challenge to the "serious" vandal and tend to reinforce an "us-against-them" attitude. They do not stop the student or former student who has a grudge against the principal, teacher, or the system.

Some communities have tried to involve parents by having them serve on anti-vandalism patrols. But this hasn't stopped the angry vandals who may be striking out at their parents.

Many communities have made parents responsible for their children's act of vandalism. But this also does not seem to deter vandalism.

Other places have required vandals to wear "I am a vandal" signs while doing compensatory work, suspended the vandals from school and sent those over 18 to jail. Yet these approaches do not seem to reduce the level of school vandalism.

The programs that do work involve the students themselves. In Wauwatosa, Wisconsin, high school students speak to elementary students on a person-to-person basis about the seriousness and waste of vandalism. This approach has been credited with reducing the vandalism rate by 50%.

In Chicago, Illinois, influential student leaders meet with small groups of students every day to discuss problems and ways to improve the school's morale. This program has been credited with reducing all types of delinquency, not only vandalism.

The basic factor in these successful approaches seems to be student pride and involvement in a school.

School administrators are becoming aware of this and are taking steps to encourage student involvement. In some school systems, students have a voice in setting the rules, such as student conduct codes, and suggesting extracurricular activities. Others have organized groups and activities such as sports, creative arts and drama projects, to involve students of diverse interests. These programs also help to "humanize" many large schools and give students a sense of belonging, of involvement and of pride.

Source: O'Gorman, Samuel, "Vandalism in Schools: Is Student Pride An Effective Antidote?" Senior Scholastic, November 27, 1981, pp. 5-7.

UNIT II: APPENDIX M

YOU'RE SUBSIDIZING THE SHOPLIFTER

Your family and all the other families around you are paying $200 to shoplifters. That's the cost per family which the stores charge to their customers for all the goods that are lost through "five-finger" accounts. The total cost of shoplifting amounts to $16 billion every year. This figure does not include the stores' costs to prevent shoplifting which are also added to the prices of consumer goods.

Retailers say that shoplifting is increasing and that two-thirds of the shoplifters caught are juveniles although shoplifters come in a range of ages. Children as young as 3 and senior citizens have been caught.

The shoplifter usually steals small, high-value items such as cosmetics, jewelry, records, tapes, and clothes.

Some of the reasons given by juveniles for shoplifting include not having the money to buy the goods, shoplifting on a dare, for the thrill, on impulse, and to get even because of high prices.

Many retailers and lawmakers are getting tougher on shoplifters. For example, a large Southern retail chain prosecutes every shoplifter caught. In Georgia, a person with a third conviction of shoplifting must serve a one-year mandatory jail term without probation.

Unless shoplifting is discouraged, American families will pay even more.

Source: William E. Schulz, "You're Paying $200 a Year to 'Subsidize' the Shoplifter." Honolulu Star-Bulletin, August 25, 1980.

UNIT II: APPENDIX N

IS STEALING BECOMING OK?

A new attitude about stealing seems to have evolved. The "moral badness" of stealing seems to be in direct proportion to the value of the thing stolen. It's "less bad" to steal a candy bar than it is to steal a bike.

Stealing by children and teenagers is common. Some examples:

- A teenager regularly stole jewelry and other valuable items from his friends' homes.
- A son, who's on drugs, stole pieces of his mother's silver.
- A child regularly steals candy from the neighborhood store.
- A child, caught in the act of shoplifting, is angry at the proprietor for having the nerve to touch him.

Who, or what, is responsible for the wide extent of stealing in our society today? Educators, behavioral specialists, religious leaders, victims - all have a number of theories. They include a breakdown in family morality, the impact of Watergate which left the people not trusting anyone, the economy, and a society with all its traditional values in flux.

An educator felt that kids steal more today because adults steal. Today's adults provide poor role models for the kids. Our society is permeated with stealing. The subtle ripoff goes around us all the time. Children have grown up with stealing as part of their lives.

Source: Hatfield, Julie, "Kids Stealing More Than Ever - and Proud of It," Boston Globe. Reprinted in the Honolulu Star-Bulletin, March 25, 1982.

DECRIMINALIZATION OR LEGALIZATION?

by M. E. Swanton

In our initial efforts to gather support for the decriminalization of prostitution we discovered that a great deal of misunderstanding exists as to exactly what is meant by decriminalization.

There are two main alternatives to prohibition, generally termed decriminalization, and the act of legalization. In Europe Decriminalization is referred to as Abolition, and refers to the repeal of the prostitution laws. Switzerland has essentially done that, with the exception that advertising for prostitution is illegal, and Switzerland is reported to have the least problems with prostitution of any country in the world.

Decriminalization would repeal the existing criminal codes regarding voluntary prostitution, per se, between consenting adults. It would deal with no new legislation to deal specifically with prostitution, but would leave the businesses which surround prostitution subject to the general civil, business, and professional codes that exist to cover all businesses. Such problems as fraud, force, theft, negligence, collusion, etc., would be covered by existing penal code provisions. Decriminalization offers the best chance for women who are involved in prostitution to gain some measure of control of their work. It would also make it easier to prosecute those who abuse prostitutes, either physically or economically, because the voluntary, non-abusive situations would be left alone. [Non-voluntary and abusive situations would still be a crime.]

Legalization, on the other hand, is a system whereby the state regulates, taxes, and licenses whatever form of prostitution that is legalized, generally leaving all other forms illegal, and often involves the establishment of special government agencies to deal with prostitution. The brothels in Nevada (one of the few states in the Union with 'county option' resulting in legalized prostitution on a county to county basis) are licensed and regulated by the government, and the women who work in them are registered as prostitutes with the County Sheriff's Department. These women are severely restricted in their movements outside of the brothels. For example, in some Nevada Counties women who work as prostitutes are not allowed to be in a bar or gambling casino at all, or in the company of a man in a restaurant or even on the street. Independent prostitution is illegal, as is prostitution in massage parlors, escort services and street prostitution. The women generally work 14-hour shifts, on three week tours of duty, during which time they see on the average of 10 to 15 customers per day. They have little or no right to refuse a customer and they are not allowed to protect themselves from VD by the use of a condom. Because of the grueling aspects of the long work shifts, many of the women use drugs supplied by the same doctor who performs the weekly VD check, drugs to help them stay awake and alert and then drugs to make them sleep. The various legalizing systems that have been developed in other countries (especially northern Europe) have been for the benefit of the customer and the state, and have done little to improve the conditions under which prostitutes work, or to help them change their occupation should they want to.

In general, decriminalization of prostitution offers much more possibility that the lives of women involved in prostitution can become safer. Juvenile prostitution is a separate question in many ways, but prohibition of laws have done nothing to protect children and adolescents from this form of sexual abuse. If adult prostitution were to be decriminalized, statutory rape and child abuse laws could be used to protect the juvenile and to prosecute the customers and pimps of juvenile prostitutes, and shelters for these young people could help them to develop the resources necessary to survive on their own without resorting to prostitution.

During this session of the Legislature a Bill will be introduced to repeal the Hawaii Revised Statutes dealing with prostitution as a criminal act. The effect will be to make it lawful to accept money for a sexual act - whereas it has previously been unlawful. This will in no way effect laws already in existence dealing with fraud, force, theft, etc.......laws now in effect under the criminal justice system. Undesirable gatherings - clustering of women in areas where tourists frequent - and other problem factors that may arise can all be handled under a statute listing vagrant patterns of behaviour. We call upon all the organizations and individuals interested in this serious problem to come out during any Hearings that may be scheduled - the time for action is NOW.

Source: "Networking," February 9, 1983, p. 3.

UNIT II: APPENDIX P

THE CHANGING ATTITUDES TOWARD MARIJUANA

Rules governing marijuana use in the U.S. today vary widely. For example, possession of marijuana at home by anyone 21 years or older is legal in Alaska but a college student in Missouri was sentenced to seven years in prison for selling $5 worth of marijuana to an undercover agent.

The easing of marijuana laws began in the 1970's. Many people thought the laws were too harsh and marijuana use did not seem to pose a health hazard. The federal government's Controlled Substances Act of 1970 reduced the offense of marijuana possession to a misdemeanor. Several states changed their marijuana laws and decriminalized marijuana possession by adults. Decriminalization would not make the possession of a small amount of marijuana legal but would make the penalties less severe such as a fine but no prison sentence. It would be treated as a minor traffic violation is treated.

However, no state has decriminalized marijuana use in the last two or three years. One reason may be that reports now coming out indicate that there are harmful effects of marijuana smoking. The second reason may be that the use of marijuana by young children has caused people to take a second look at their attitudes toward marijuana.

Chemists have identified over 350 chemicals in marijuana. One is THC (delta-9-tetrahydrocannabinol), a psychoactive chemical. When ingested, THC accumulates in the brain and in the reproductive organs. Medical scientists believe the accumulation of THC and other chemcials may be harmful to health and are continuing studies in this area.

Studies are also being done on the medical uses of THC. These include the treatment of glaucoma (a serious eye disease) and nausea caused by certain anti-cancer drugs.

Several groups are working to legalize marijuana use for medical purposes.

Marijuana use by high school students seems to be decreasing. A social psychologist feels that this trend results partly from health concerns, and partly from a more conservative outlook among today's students.

In many communities, parents and the police have joined forces with teachers and students to develop positive programs to help combat the "pot" culture and the drug oriented peer pressure that many students face. Such team efforts seem to be working.

Source: Gardner, Sandra, "Marijuana: Laws, Attitudes, Concerns are Changing," Senior Scholastic, September 8, 1981, pp. 16-20.

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Caught in a Rip Off	6751
Caught Shoplifting	6109
Eye of the Beholder (perception and crime)	6446 US
How to Say No to a Rapist and Survive	6360 S
No Body's Victim (self-defense)	5668
No Cop Is a Hero Until You Need One	6529
On Guard Bunco (con games)	5465
The Ripoff (shoplifting)	6302
Thumbs Down (hitchhiking)	6592
The Vandals	6427
Violence Just For Fun	6460

OTHERS:

Daily newspapers

Newsmagazines

Law dictionary

UNIT III: CRIMINAL JUSTICE PROCESS

Overview

The criminal justice process includes everything that happens to a person from the time of arrest until the person is completely free from the state's control. A major aspect of criminal justice is the rights of the accused, which in the American system of justice are important for the protection of the basic American right of a fair trial. However, these rights must be balanced against society's right to safety.

The final phase of the criminal justice process begins with the sentence. Many states are exploring alternatives to a prison sentence, as well as re-examining the issue of capital punishment.

Lesson I examines the process from arrest to pre-trial. It studies the constitutional rights as they apply to search and seizure, arrest, interrogation and confession and bail.

Lesson II examines the due process rights in Amendments V and VI of the U.S. Constitution as they apply to the rights of the accused to a fair trial. It also looks at the role of judges, jurors and lawyers in the trial process.

Lesson III examines the purposes of the sentence and inquires into alternative kinds of sentences. Prison conditions and problems and their effects on society are also studied.

Lesson IV takes a look at the juvenile justice system. The role of the judge in the family court, juvenile rights and the inequities of the juvenile justice sytem are examined in this lesson.

UNIT III: CRIMINAL JUSTICE PROCESS

Content Concepts

1. Criminal Justice Process
2. Juvenile Justice

Generalizations

1. The criminal justice process includes everything that happens to the accused from the time of arrest to the time the person is out of the state's control.
2. In the American system of justice, a person accused of a crime continues to have the same constitutional rights as any other person and has additional protections. Many of these protections are based on Amendments V, VI, VIII and XIV.
3. The various due process rights are important to protect the basic American right to a fair trial. These rights are provided in Amendments V and VI and include the following: right to trial by jury, right to speedy and public trial, right to confront witnesses, right to freedom from self-incrimination, right to counsel.
4. There is disagreement over the handling of persons accused of crime. Today there is no single purpose for sentencing a person found guilty of a crime. Purposes for the sentence include retribution, rehabilitation and incapacitation.
5. The establishment of a separate juvenile justice system is based on the philosophy that children in trouble with the law should be helped rather than punished.

Objectives

1. Describe the steps in the criminal justice process from arrest to the proceedings before the trial.
2. Show the relationship between rights of the accused and the Bill of Rights.
3. Explain basic rights and responsibilities in American society in terms of due process of law.
4. Analyze problems of violation of human rights guaranteed by the U.S. Bill of Rights and denial of due process of law.
5. Demonstrate an understanding of trial procedures by taking part in a mock trial.
6. Identify and explain the purposes of the sentence and describe alternative ways of sentencing.

7. Compare and contrast the procedures of the juvenile court system and the adult criminal court system.

8. Explain how the "parens patriae" concept shaped the juvenile justice system.

LESSON I: PRE-ARREST TO PRE-TRIAL

Content Concept

Criminal Justice Process

Generalizations

1. The criminal justice process includes everything that happens to the accused from the time of arrest to the time the person is out of the state's control.

2. In the American system of justice, a person accused of a crime continues to have the same constitutional rights as any other person and has additional protections. Many of these protections are based on Amendments V, VI, VIII and XIV.

3. Probable cause is a standard that must be met in order to arrest a person. Police must use their own judgment in determining probable cause under the circumstances of each case.

4. The individual's right to privacy is protected by Amendment IV.

Objectives

1. Describe the steps in the criminal justice process from arrest to the proceedings before the trial.

2. Show the relationship between the rights of the accused and the Bill of Rights.

3. Analyze cases involving the rights of the accused.

4. Analyze and evaluate cases for the standard of probable cause.

5. Explain basic rights and responsibilities in American Society in terms of due process of law.

Vocabulary Words to Know

1. Affidavit: A written statement sworn to before a notary or officer of the court.

2. Arrest: The legal apprehension and restraint of a person for the purpose of charging the person with a crime.

3. Arraignment: A formal proceeding in which the defendant in a criminal case is called before the court and informed of the offense he or she is charged with. The defendant is then asked to plead guilty or not guilty.

4. Bail: An amount of money set aside by the court which must be posted or pledged prior to the release of a person accused of a crime. Bail is intended to assure the defendant's presence in court.

5. Booking: The formal process of making a police record of the arrest.

6. Charge: The accusation outlining the nature of the crime(s) the suspect allegedly committed. Generally, the charge is contained in an indictment or complaint or stated orally.

7. Continuance: More time to prepare the case.

8. Discovery: The procedure by which the defense and prosecution find out about the other side's case.

9. Exclusionary Rule: The principle which excludes the use of evidence that is illegally obtained.

10. Interrogation: The questioning of the accused after an arrest.

11. Motion: An application to the court requesting something. Motions may be made orally or in writing.

12. Plea Bargaining: Negotiations between the defense and the prosecution to resolve the dispute without a full trial. Negotiations may result in the following: a guilty plea to a lesser charge; a guilty plea to a charge in exchange for the prosecution's agreement to recommend a definite sentence to the court; a guilty plea to some counts in exchange for the prosecution abandoning certain counts.

13. Probable Cause: The existence of facts and circumstances within one's knowledge which would cause a person to believe that a crime has been committed (in the context of an arrest) or that property subject to seizure is at a designated location (in the context of a search and seizure). Probable cause is required at the time of the arrest or search.

14. Search and Seizure: The police practice of searching for and then seizing evidence useful in the investigation and prosecution of a crime. A search and seizure must be reasonable and police usually must have probable cause to believe that the item searched for was involved in criminal activity and will be located at the place to be searched.

15. Warrant: A written document issued by the judge authorizing a police officer to make an arrest, make a search, or carry out a judgment.

Initiating Activity

Introduce students to this lesson by asking them if they know of anyone who had been arrested by the police. Encourage students to discuss their feelings and the way they were treated.

The following questions may also be discussed to assess students' knowledge. Encourage students to express their own opinions.

- What does it mean to be arrested?
- What is a warrant? an arrest warrant?
- Do you think a person can be arrested without a warrant? (Can a person be arrested on "probable cause"?)
- Is it important to cooperate with the police if you are stopped and questioned?
- What can a person do if a police officer uses too much force or makes an unlawful arrest?

Students will learn the answers to these questions in subsequent activities.

Developmental Activities

1. Arrest

   a. Have students read Arbetman, Street Law, pp. 57-64, or other resources for information about arrest.

   b. Discuss the following advice on what a person should do if arrested. Discuss the reason(s) for each.

      - Don't struggle.
      - Give name, address and phone number or keep quiet.
      - Call a trusted friend or lawyer.
      - Don't talk about your case with anyone except your lawyer. (Source: Arbetman, Street Law, p. 65.)

      See Arbetman, Street Law, p. 65, for additional advice on what to do if arrested.

   c. Show any of the following films:

      - "No Cop's a Hero ... Until You Need One."

        This 24-minute film dramatizes a number of everyday situations that are potentially troublesome in police-community relations. It shows the problems from both the police and civilian points of view. Available from the Department of Education film collection.

      - "Under Arrest"

        This 15-minute film focuses on personal attitudes and their relationship to legal rights, as dramatized in the arrest of a college student for resisting arrest and assault after he is stopped for questioning about a murder. Stop-action film technique encourages class discussion about preserving law and order. Available from the Department of Education film collection.

- "Our Man in the Middle"

  This 28-minute film illustrates the difficult role of our police officers in today's changing society. It explores in depth the problems facing all citizens and their respective police departments in the maintenance of law and order under a variety of situations. Available from the Hawaii State Library film collection.

  Questions to discuss may include the following:

  - What are the most common kinds of tasks that a police officer does?
  - What attitudes on the part of the public make a police officer's job difficult?
  - What kinds of support would the police like to have from the public?

d. Invite a police officer to speak to the class about arrest procedures and the concept of probable cause. Encourage students to ask questions or have students submit written questions for the officer to answer.

The following questions may be discussed after the talk:

- What did you learn from the speaker?
- What else would you like to have learned?
- How did you feel about the speaker and what he or she had to say?
- How did the speaker's remarks relate to other information you have learned on the same topic?

2. Search and Seizure

Searches and seizures are constitutionally limited by the Fourth and Fourteenth Amendments of the United States Constitution and by provisions in the state constitution, statutes, and rules of court.

Search and seizure laws are complex. It is up to the courts to decide whether evidence found in a search was legally obtained.

A search and seizure must be reasonable. The police usually must have probable cause to believe that the item searched for was involved in criminal activity and will be located at the place to be searched. Except in certain carefully defined emergency situations, police must present this evidence to a judge to obtain a search warrant prior to the search and seizure.

(Source: The Hawaii Crime Commission, Principles of Criminal Proceedings in Hawaii's Judicial System, p. 188.)

a. Discuss the Fourth Amendment to the Constitution. Point out that this amendment is not an absolute right to privacy and does not prohibit all searches, only those that are unreasonable. The problem is in determining what is reasonable and unreasonable.

Have students suggest their ideas of unreasonable searches and describe conditions under which a search warrant may not be necessary. Encourage students to share their ideas and opinions. Also discuss the exclusionary rule and its impact on police officers and whether or not the rule should be changed.

Searches and seizures without a warrant may be legally conducted in the following situations:

- search incident to an arrest;
- stop a person who is behaving suspiciously and frisk for weapons;
- with consent;
- object is in plain view;
- hot pursuit;
- reasonable cause to search a vehicle;
- emergency situations;
- border and airport searches.
  (Source: Arbetman, Street Law, pp. 67, 70.)

Have students read in Arbetman, Street Law, pp. 66, 70, or other resources about searches with and without a warrant.

Ask students to determine whether search and seizure is lawful or unlawful in the following situations and whether or not the objects can be used as evidence.

- Jane's former boyfriend breaks into her apartment and looks through her drawers for a ring he gave her. Instead he finds cocaine which he turns in to the police. (Answer: The search is probably unlawful, but since the government was not involved, the police can use the evidence.)
- A student informs the principal that a classmate, Joe, is selling marijuana on campus. The principal opens Joe's locker with a master key, finds several bags of marijuana and calls the police. (Answer: The search is probably lawful. The school owns the lockers and the administrators can take reasonable

steps to protect the welfare of the students. However, some court decisions and rules in some schools require the administrators to have probable cause to search.)

- Josie is arrested for "driving so as to endanger." After stopping her, the police search her handbag and find a handgun. (Answer: The search is lawful so long as she was legally arrested.)

(Situations adapted from Arbetman, Street Law, pp. 70-71.)

b. If available, have students read "Search and Seizure: Do Teenagers Have Fourth Amendment Rights?" in Senior Scholastic, April 30, 1982. This article points out that teenagers are covered by the Fourth Amendment, except at home and in school. Parents and school administrators don't need search warrants before searching your room or lockers. They have the right to invite the police or other government official to conduct a search without a warrant.

c. For an update on recent Supreme Court rulings on Search and Seizure, have students read the article "Searching Cars," in Time, June 14, 1982.

Students may also read "Warrants Likely for Auto Search Here," in Unit III: Appendix A at the end of this unit.

Questions for discussion may include:

- How did the recent Supreme Court ruling affect police power? What impact will it have in Hawai'i?
- Do you agree with the Supreme Court's majority opinion that police officers without warrants (and with probable cause) may search anywhere in a car and may open almost any container?
- Why do you suppose the country is moving away from a strong right to privacy?

d. Show the film "Arrest and Seize," available from the Department of Education film collection. This 16-minute film demonstrates that in certain situations, police officers can, without a search warrant, detain and search citizens solely on the basis of probable cause.

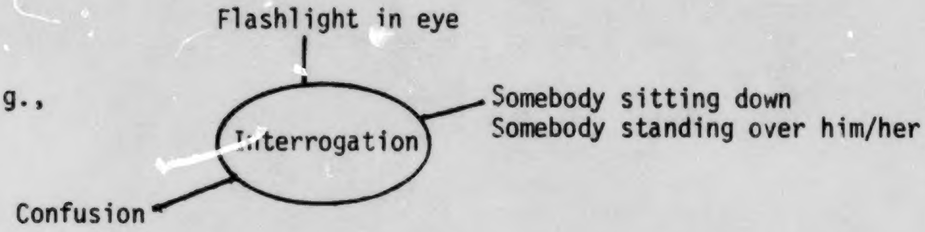
Questions for discusson may include:

- What offenses was the boy guilty of?
- Did the police have reasonable cause to search the auto and its occupants? Explain.
- Do you think the punishment was fair? Explain.

3. Interrogation and Confession

a. Introduce students to these concepts by doing a word association activity. Write "interrogation" on the board and have students suggest words that come to mind. Write all their responses.

E.g.,



Have students summarize their views of interrogation. Ask students if citizens have rights when being interrogated by police. Discuss: What does it mean to have your "rights read"?

b. Discuss the Fifth Amendment to the U.S. Constitution. Point out that the privilege against self-incrimination means that a suspect has the right to remain silent and cannot be forced to testify against himself or herself.

Have students read "Miranda v. Arizona (1966)" in Unit III: Appendix B at the end of this unit.

Questions for discussion may include the following:

- Do you think Miranda's confession should have been used as evidence against him at the trial? Why or why not?
- Do you think the Fifth Amendment applies to this case?
- Why do you think the right to remain silent is protected by the Constitution?
- Do you think police should be required to tell suspects their rights before questioning them?
- Do you think anyone would confess after being told of their rights? How would you strike a balance between the protection guaranteed by the Constitution and the protection needed by society from crime?

Point out to students that the following Miranda warnings should be read to the suspect once he or she is in custody and under interrogation, not necessarily when the suspect is placed under arrest. (Source: Arbetman, Street Law, Teacher's Manual, p. 74.)

- Suspects have the right to remain silent. Anything they say can be used against them in court.

- Suspects have the right to a lawyer and to have one present while they are being questioned.

- If suspects cannot afford a lawyer, one will be appointed for them before questioning begins.
(Source: Arbetman, Street Law, p. 73.)

c. For further information on interrogations and confessions, students may read in Arbetman, Street Law, pp. 72-74.

4. Booking and Initial Appearance

a. Ask students if they know what will happen to a suspect at the time of booking. Have students recall television shows or films which showed suspects being booked.

Point out to students that following this formal process of making a police record of the arrest, the suspect may be fingerprinted and photographed. The suspect may also appear in a lineup.

b. Distribute "The Criminal Procedure Flow Chart" in Unit III: Appendix C. Students may use the chart to keep track of the process.

c. Have students suggest what will happen to the defendant after he or she is booked, fingerprinted, etc.

Students may read in Principles of Criminal Proceedings in Hawaii's Judicial System, pp. 25-26, about the initial appearance. Check your school library for a copy of this booklet by The Hawaii Crime Commission. Copies are available from The Hawaii Crime Commission, State Capitol, Honolulu, HI 96813.

Students may also read in Arbetman, Street Law, p. 75, for additional information on booking and initial appearance.

At the initial court appearance the judge must (1) be satisfied the defendant is informed of the charges; (2) inform the defendant of the right to remain silent and that any statement made may be used against the defendant; (3) advise the defendant of the right to counsel; and (4) admit the defendant to bail as provided by law. (Source: The Hawaii Crime Commission, Principles of Criminal Proceedings in Hawaii's Judicial System, p. 26.)

Point out that the most important decision made at this point is whether the suspect will be released from custody. Have students discuss why this is an important issue for society as well as for the defendant.

5. Bail and Pre-trial Release

Ask students for their opinions about the purpose of bail.

Point out that a judge must consider the nature of the offense, the past record of the accused, the financial status of the accused in order to deny bail or release the accused.

Have students analyze some cases and decide whether the persons should be released and under what conditions. Hand out "Bail Hearing" in Unit III: Appendix D at the end of this unit.

Discuss students' opinions. Encourage students to give reasons and explain their answers. In discussing these cases ask students if they think that it should be easier or more difficult to get out of jail before trial.

For further information on bail and pre-trial release see Arbetman, Street Law, pp. 76-77.

6. Defenses

Have students discuss the following: What are some possible defenses in criminal cases? Encourage students to recall cases they may have read in the newspapers or heard on TV.

Students may read in Arbetman, Street Law, pp. 55-58, about the following possible defenses in a criminal case. Discuss each defense.

- No crime has been committed; the defendant had no criminal intent.
- Defendant did not commit the crime and has an alibi.
- The criminal act committed was excusable or justified (e.g., self-defense, defense of property or others, duress or necessity).
- The criminal act was committed, but the defendant is not criminally responsible for his or her actions (e.g., infancy, intoxication, insanity and entrapment).

Hand out "Probable Defense" in Unit III: Appendix E at the end of this unit. Ask students to identify the probable defense in each situation.

7. Pre-trial Motions

After the arraignment and plea, the prosecutor and defense attorney may, before the trial, make certain requests to the court (i.e., file motions) for certain court orders. Pre-trial motions are important because they can determine the nature and the quantity of evidence the prosecutor is allowed to use or the direction in which the trial will proceed. Some of the more common motions are:

- motion to dismiss a charge;
- motion to suppress evidence;
- motion for discovery;
- motion for continuance;

- motion for change of venue.
  (Sources: Arbetman, Street Law, p. 79 and The Hawaii Crime Commission, Principles of Criminal Proceedings in Hawaii's Judicial System, pp. 39-45.)

Students may read in the sources cited above for detailed explanations of the motions.

Have students read "Mapp v. Ohio (1961)" in Unit III: Appendix F. Discuss whether the government should have the right to use evidence obtained illegally, or whether this violates the Fourth Amendment and the due process clause of the Fourteenth amendment.

The motion to suppress evidence alleges that certain evidence the government plans to use at trial was obtained illegally and should not be admissible in court. The Supreme Court ruled in "Mapp v. Ohio" that this motion is applicable to state courts. (Source: Arbetman, Street Law, p. 81.)

8. Plea Bargaining

A great majority of cases result in guilty pleas, either as a result of plea bargaining or by individual choice of the defendant.

Plea bargaining takes place at the pre-trial stage and allows the government to avoid the time and expense of a trial. It involves having the defendant plead guilty in return for some concession from the prosecutor. This concession could take any of the following:

- dismissal of some of the charges;

- reduction in the severity of the charge;

- prosecutor recommending leniency or remaining silent at the time of sentencing.
  (Source: The Hawaii Crime Commission, Principles of Criminal Proceedings in Hawaii's Judicial System, pp. 36-37.)

Plea bargaining has become a very controversial procedure. Some critics charge that plea bargaining allows dangerous criminals to get off with lighter sentences and that criminals are not being punished as they should be. Others argue that plea bargaining is unfair to the defendant, especially when the prosecutor has a weak case and that the government should be forced to prove the defendant guilty beyond a reasonable doubt in a trial. (Source: Arbetman, Street Law, p. 83.)

a. Ask students if they know what plea bargaining is. Discuss some possible reasons why prosecutors and the accused would agree to plea bargain.

   Students may read in Arbetman, Street Law, p. 82-83, about plea bargaining.

b. Show the film "The Plea." This 15-minute film informs the viewer of one's legal obligation to stop and identify oneself after an automobile accident. It also shows an example of sound prosecutorial discretion, plea bargaining. Available from the Department of Education film collection.

Questions for discussion may include the following:

- Should plea bargaining be allowed?
- Does plea bargaining offer greater advantages to the defendant or the prosecution?
- What are the disadvantages of plea bargaining for the prosecution? for the defendant?

Culminating Activity

Have small groups of students role-play situations in which all the elements and procedures from search and seizure to pre-trial are taken into consideration. These include:

- search and seizure;
- arrest;
- booking and bail;
- interrogation and confession;
- pre-trial motions;
- defenses offered;
- plea bargaining.

All students may take part in this exercise, from writing the scenarios to playing the various roles.

LESSON II: THE TRIAL

Content Concepts

1. Criminal Trial Process
2. Due Process

Generalizations

1. The various due process rights are important to protect the basic American rights of a fair trial. These rights are provided in Amendments V and VI and include the following: right to trial by jury, right to speedy and public trial, right to confrontation of witnesses, right to freedom from self-incrimination, right to counsel. The due process clause in Amendment XIV requires the states to apply these rights to the people.
2. Due process basically requires that no law or government procedure be arbitrary or unfair.

Objectives

1. Identify and explain the due process rights as stated in Amendments V and VI of the U.S. Constitution.
2. Analyze court cases which involve violation of rights to a fair trial.
3. Explain the roles of judges, juries and lawyers before and during a trial.
4. Demonstrate an understanding of trial procedures by taking part in a mock trial.

Vocabulary Words to Know

1. Contempt of Court: Open disrespect for the law or decisions of the court.
2. Due Process of Law: The idea that every person is entitled to a fair hearing or trial. Due process basically requires that no law or government procedure be arbitrary or unfair.
3. Immunity: A protection from a duty or penalty.
4. Self-incrimination: Indicting oneself through one's own testimony.
5. Voir Dire: A voir dire examination refers to the examination by the judge or by the attorneys of prospective jurors to determine their qualification for jury service, to determine if cause exists to challenge or excuse particular jurors, and to provide information about the jurors so that the parties can exercise their peremptory challenges.

6. Waiver: An intentional and voluntary abandonment of some known right.

Initiating Activity

Introduce students to this lesson by having them respond to a hypothetical situation like the following. The story describes a situation where the accused are not given due process rights.

> "Let's suppose that at the present time you are 28 years old and have been in jail for the past ten years. Do you remember what happened ten years ago? You were awakened by the police early one morning and arrested. You were charged with murder in the first degree. For the next five years you remained in jail awaiting for your case to come to trial. The prosecutor assigned to your case explained that there was an overload of court cases so you just had to be patient. Finally, your day in court arrived and present at your trial were the judge and prosecutor. The prosecutor presented her case to the judge. She showed the judge a letter from Mr. Lee, one of your neighbors. Mr. Lee wrote that while he was taking his nightly walk, he heard gun shots coming from this house right around the corner. He stated that he ran toward the house and saw you through the window with a gun in your hand. The judge accepted the letter as evidence. You were then ordered to take the stand and answer all questions. The prosecutor kept asking the same question: 'What did you do with the gun?' The judge ordered you to answer. Unfortunately, the judge would not listen to your side and you were sentenced to life in prison."

Have students discuss whether a scenario like the one described above could take place in the United States. What rights do accused persons have at trial? Discuss the purpose of these rights.

Developmental Activities

1. Due Process Rights

   a. Have students look at Amendments V and VI to the U.S. Constitution and identify the specific rights that center on a fair trial. Compare with students' answers in the initiating activity.

   Have students discuss if they think these rights are important and should be in the Constitution.

   b. Students may read about the due process rights in Arbetman, Street Law, pp. 83-87 and discuss the issues presented. The issues include:

   - Should jury verdicts be unanimous?
   - Should the broadcasting media be allowed to televise criminal trials?

2. Confrontation of Witnesses

Have students read "Smith v. State" in Unit III: Appendix G at the end of this unit.

Discuss the following questions:

- Do you think Mr. Smith had the right to confront the psychiatrists who said he was not insane?
- Do you think Mr. Smith should be granted a new trial?

The Arkansas Supreme Court ruled in favor of Mr. Smith. The right to confront witnesses is a fundamental right and without this right people could not be sent to jail on the testimony of unknown persons. It also gives the defense an opportunity to cross-examine the witnesses and to evaluate the accuracy of the testimony. Mr. Smith was granted a new trial. (Source: Craig Pearson and Charles Cutler, Editors, Liberty Under Law, American Education Publications, 1963, p. 43.)

3. Impartial Jury

Have students read "Thiel v. Southern Pacific Company (1946)" in Unit III: Appendix H.

Questions for discussion may include:

- Do you think Mr. Thiel had an impartial jury?
- What is an impartial jury?
- Do you think a jury of laborers would constitute an impartial jury?
- Would you grant Mr. Thiel a new trial?

The Supreme Court ruled in Mr. Thiel's favor. They did not accept the reasoning of the California court that "working people" should be left out of juries because they would be deprived of their wages. The Supreme Court stated that the whole idea of courts would be different and less desirable than that intended by the Constitution if "working people" were kept out of juries. Mr. Thiel was granted a new trial. (Source: Mary H. Manoni, Our Bill of Rights, Scott, Foresman and Company, 1970, p. 76.)

4. Roles of Judges, Jurors and Lawyers

   a. Introduce students to this activity by asking them to decide whether they would prefer to be a judge, a juror or a lawyer. Include in the discussion their perceptions of the roles and responsibilities of judges, jurors and lawyers.

   Have students read about the roles and functions of judges, juries and lawyers in Arbetman, Street Law, pp. 24-26, 86-87.

Questions may include the following:

- What are the responsibilities of the judge? (Possible answers: questions prospective jury members, gives instructions to the jury, conducts the trial and sees that the proper procedures are carried out, gives the sentence.)
- What are the requirements for jury duty? (Possible answers: age, citizenship, language, residency.)
- What are the responsibilities of the jury? (Possible answers: listen to evidence, make decision on guilt or innocense of defendant.)
- What is the lawyer's role in selecting jurors? (Possible answer: voire dire examination, selecting impartial jurors.)
- What happens if the defendant cannot afford a lawyer? (Possible answer: A lawyer will be provided.)

b. Show the film "Jury and Juror" from the DOE film collection. This film explains the civic responsibility of accepting jury duty, tells the function of a jury, and describes the duties of a juror.

Discuss the following questions:

- What are the responsibilities and duties of a person who has jury duty?
- What is the purpose and function of a jury?

c. Show the filmstrip "The Jury System" from Prentice Hall Media. This 1978 production deals with the question, "How does the jury system work?" It explains the development of the jury system and gives students a perspective on citizen involvement and responsibility in regard to the justice system.

Questions for discussion may include:

- What is the basis for the selection of jurors?
- What are the pros and cons of having a jury trial?

d. Students may read about the jury system in Starr, Justice: Due Process of Law, pp. 55-71.

5. Legal System

a. Show the film "In Search of Justice," from the Hawaii State Library film collection. This 28-minute film shows a day in the life of the American legal system, narrated by Henry Fonda. The immensity and complexity of the system are illustrated by showing the operation of its various components - actual courtroom scenes, clients consulting attorneys, law students in class, legislative session, a meeting of a state supreme court, and the President signing a bill into law. Thousands of people in many capacities are involved in making the legal system work.

Have students relate how justice is involved in the various scenes shown.

b. Have students read "Our Changing Court System" in Unit III: Appendix I.

Questions for discussion may include:

- Identify and explain the changes that are going on in many court systems today?
- What do you think of these changes?
- What are the arguments for and against television coverage? Do you think video cameras should be allowed in the courtroom for news coverage?

c. Have small groups of students visit an actual trial. Have students do an oral and/or written report of their observations and impressions. Compare with a newspaper account, if available.

Culminating Activity

Conduct a mock trial. Assign a group of students to write a scenario for the trial.

Then have students choose roles - plaintiff, defendant, judge, jurors, defense attorney, prosecuting attorney, witnesses for both sides, etc.

Allow about one week for students to prepare for the trial. Students should meet in small groups to plan their strategy and go over what is required of the roles.

Distribute the following Unit III appendices and discuss at appropriate times.

- Appendix J: "Mock Trial Roles"
- Appendix K: "Outline for Mock Trials"

LESSON III: SENTENCING

Content Concept

Sentencing

Generalizations

1. The sentence is a critical decision in the criminal justice process because it determines the defendant's future.
2. Determinate sentencing generally used with misdemeanor convictions, and indeterminate sentencing, generally used with felony convictions, are commonly used systems of sentencing.
3. Judges generally have a wide range of options with respect to the actual sentence, including the type, length, and conditions of the sentence.
4. There is disagreement over the handling of persons convicted of crime and today there is no single purpose behind the sentence. Purposes for the sentence include retribution, deterrence, rehabilitation and incapacitation.

Objectives

1. Identify and explain the purposes of the sentence and describe alternative ways of sentencing.
2. Explain what a judge takes into consideration before sentencing.
3. Describe prison conditions and explain some of the problems and solutions.
4. Identify the arguments for and against capital punishment and express one's opinions.
5. Analyze sentences imposed on current criminal cases.

Vocabulary Words to Know

1. Aggravating Factors: Factors that might raise the seriousness of an offense.
2. Capital Punishment: The death penalty.
3. Deterrence: A reason for punishment based on the belief that the punishment will discourage the offender and others from committing crimes.

4. Incapacitation: A theory of sentencing that stresses keeping a convicted criminal in prison to protect society.

5. Mitigating Factors: Factors that might lower the seriousness of an offense.

6. Presentence Report: A written report by the probation department that gives the judge information about the defendant's background.

7. Probation: A procedure whereby a defendant, found guilty of a crime, is released by the court without imprisonment, subject to conditions imposed by the court and under the supervision of a probation officer.

8. Rehabilitation: A theory of sentencing that attempts to reform a convict so that he or she will not commit future crimes.

9. Restitution: A sentence in which the convicted person is required to compensate the victim for the crime.

10. Suspended Sentence: A sentence is given but the convicted person is not required to serve it and is released with no conditions attached.

11. Work Release: A sentence in which the convicted person is allowed to work in the community but is required to return to prison at night or on weekends.

Initiating Activity

Introduce students to this lesson by presenting to them two different cases of defendants who committed the same crime. Have students discuss whether both defendants should receive the same sentence or whether the judge should look at each case and determine the sentence on an individual basis.

Developmental Activities

1. Sentencing

Have students impose sentences on convicted persons. Distribute "Bail Hearing" in Unit III: Appendix D at the end of this unit. Have students assume that all defendants were found guilty and consider the information provided before imposing a sentence in each case.

Inform students that before imposing sentence they may want to know the sentencing options and the purposes of the sentence. Have students suggest various options in sentencing and the reasons for punishment. Students may validate their responses by reading the following:

- Arbetman, Street Law, pp. 87-89.
- The Hawaii Crime Commission, Principles of Criminal Proceedings in Hawaii's Judicial System, pp. 64-71.

The factors taken into consideration in deciding on the sentence may include an analysis of the circumstances attending the commission of the crime, the defendant's history of delinquency or criminality, physical and mental condition, family situation and background, economic status and capacity to make restitution to the victim(s), occupation, personal habits, and the judge's own philosophy of corrections and what he or she thinks is best for the good of society and the individual. (Source: The Hawaii Crime Commission, Principles of Criminal Proceedings in Hawaii's Judicial System, pp. 68-69.)

The sentencing options include fine, suspended sentence, probation, restitution, work release, community service and imprisonment. (Source: Arbetman, Street Law, p. 87.)

Students may work in small groups of three and impose a sentence in each case.

Questions for discussion may include:

- What were the most important factors for the case?
- What sentence did you impose? What was your reason for the sentence?

2. Prisons

   a. Discuss why prisons are overcrowded and the alternatives to prison that are being used in parts of the United States.

      Have students read "Prison Conditions" in Unit III: Appendix L.

      For a look at our local prison, students may read the articles listed in Unit III: Appendix M. Different students may read different articles and share their information in class.

   b. Show the film "The Odds Against" from the Hawaii State Library film collection. This 32-minute film dramatizes the life of a first offender. It examines the variety of correctional systems in the United States.

      Questions for discussion may include:

      - Why are the odds against John Mitchell becoming a productive member of society?
      - What things need to be changed in the prison system?

   c. Invite a speaker from the Corrections System to talk to the students. This might be an administrator and/or a prisoner.

      Students may write a reaction paper and/or discuss the following:

      - What did you learn from the speaker?

- What else would you like to have learned?
- How did you feel about the speaker and what he or she had to say?
- How did the speaker's remarks relate to other information you have learned on the same topic?

3. Capital Punishment

Capital punishment is the most severe form of sentencing and the use of it has declined since the 1930s.

Have students discuss or debate the following:

- Do you think Hawai'i should reinstate capital punishment?
- If you favor the use of the death penalty, to what crimes do you think it should apply?
- Do you think the death penalty deters crime?

Students may read about capital punishment in Arbetman, Street Law, pp. 89-90.

Culminating Activity

Have students bring in newspaper articles about current criminal cases and the sentences imposed. Ask students to analyze the sentence given and decide whether they think the sentence is fair. Have students give reasons for their answers.

LESSON IV: JUVENILE JUSTICE

Content Concept

Juvenile Justice

Generalizations

1. In the United States, juveniles involved with the law are treated differently from adults.
2. The establishment of a separate juvenile justice system is based on the philosophy that children in trouble with the law should be helped rather than punished.
3. The concept of "parens patriae" has shaped the juvenile justice system. It required an informal hearing rather than an adversarial one and is supposed to be treatment oriented rather than punishment oriented.
4. The trend in many places is to lower the age at which juveniles charged with violent crimes be allowed or required to be tried in adult courts and sentenced as adults.

Objectives

1. Compare and contrast the procedures of the juvenile court system and the adult criminal court system.
2. Analyze conditions and treatment of juveniles in representative areas in the United States.
3. Explain how the "parens patriae" concept shaped the juvenile justice system.
4. Analyze problems of violation of human rights guaranteed by the U.S. Bill of Rights and denial of due process of law.

Vocabulary Words to Know

1. Adjudicatory Hearing: The equivalent of a trial. The purpose is to determine the facts of the case.
2. Admission: A guilty plea.
3. Aftercare: This involves supervision by a parole officer after a juvenile is released from an institution.

4. Contact: Arrest, take into custody.
5. Delinquent Act: An act committed by a juvenile that is a crime under federal, state, or local law.
6. Delinquent Offender: A juvenile who has committed a crime.
7. Denial: Not guilty plea.
8. Disposition: The sentence the juvenile offender receives.
9. Family Court: A division of the Circuit Court which specializes in cases involving children, family and domestic problems.
10. Found to be Involved: A guilty verdict.
11. Parens Patriae: The principle that the court would act as a parent or guardian interested in protecting and helping the child.
12. Petition: File charges.
13. Status Offender: A juvenile who is considered to be beyond the control of the legal guardian, or who has committed acts that would not be considered crimes if done by adults, such as running away from home.

Initiating Activity

Introduce students to this lesson by assessing their knowledge of the juvenile justice system. Ask students to share their knowledge and experiences of the juvenile justice system. Be positive and supportive of those who participate in the discussion.

Questions to stimulate their thinking may include:

- What kinds of cases go before the Family Court?
- Do juveniles accused of crimes have the right to a lawyer?
- Do you think juveniles are treated differently than adults?
- Under what circumstances can juveniles be referred to the adult court system?
- What rights are not given to juveniles in Family Court?

Developmental Activities

1. Juvenile Justice

   a. Students may read in the following sources for information about juvenile justice.

- Arbetman, Street Law, pp. 90-101.

- Under Eighteen and Under Arrest, League of Women Voters of Hawaii.

- Update Magazine, Spring 1979, American Bar Association. This issue discusses juvenile justice.

Students may discuss the questions raised in the initiating activity and the following.

- What is "parens patriae?" How does this concept affect a juvenile delinquent? Do you agree with this idea?

- What is a status offender? Do you think status offenders should be placed in detention facilities? Can you think of other alternatives?

b. Hand out "Junvenile or Adult?" in Unit III: Appendix N at the end of this unit. Have students decide if the person accused in each case should be tried as a juvenile or adult. Encourage students to explain the reasons foreach decision. Other real-life examples described in the newspapers may also be used.

2. Family Court

a. Show the film "Juvenile Court" from the DOE film collection. This 15-minute film describes the action in a case involving a minor and his parents. The role of the judge is the key to the effectiveness of this court.

Questions for discussion may include:

- How is the juvenile court system different from the adult system?

- What role did the judge play? Why is the judge's role important?

b. Point out to students that in Hawai'i the juvenile court has been replaced by the family court.

Have students read "Family Courts" in Unit III: Appendix O. Ask students to suggest the differences between family court and juvenile court. Other discussion questions may include:

- What kinds of cases do the family courts handle?

- Why do you suppose they have original jurisdiction over certain kinds of adult criminal cases?

- What is the maximum age jurisdiction of the family courts in Hawai'i?

- At what age and under what circumstances can juveniles be transferred to the adult criminal justice system?

3. Juvenile Justice Process

Point out that the terminology used in the juvenile justice process is different than that used in the adult criminal system although the process is similar. The juvenile justice process includes the delinquent act, taking into custody, initial hearing, adjudicatory hearing and dispositional hearing.

Students may read in Arbetman, Street Law, pp. 95-101, for information on the procedures of juvenile justice.

4. Juvenile Rights

Ask students if juveniles have the same rights as adults.

Have students read "In Re Gault (1967)" in Unit III: Appendix P and have them list anything that happened to Gerald Gault that they consider unfair. Encourage students to explain their answers.

The Supreme Court decided that juveniles are entitled to certain basic rights which include the following:

- The charges must be specified and the defendant must be notified of the charges.
- A juvenile charged with an offense has the right to an attorney, to remain silent and to confront and cross-examine witnesses. (Source: Arbetman, Street Law, p. 94.)

Ask students if they agree with the Supreme Court decision. Students may also discuss the following: Should juveniles be given the right to trial by jury?

In McKeiver v. Pennsylvania (1971), the Supreme Court decided that jury trials were not required in juvenile cases. The Court stated that jury trials could hurt juveniles by destroying the privacy of juvenile hearings. (Source: Arbetman, Street Law, p. 94.)

5. Inequities of Juvenile Justice System

a. Show the film "This Child Is Rated X," parts I and II. This 52-minute film from the DOE film collection examines the inequities of juvenile justice and the abuse of children's rights in America. It shows that the child who has committed a status offense, such as running away from abusive parents, shares the same dehumanizing facilities as the child who has committed a serious crime.

Questions for discussion may include:

- What kind of conditions exists in the juvenile justice system in some parts of the U.S.?
- Why do these conditions exist?

- What are the reasons why most of the juveniles in the film were committed to the facilities?

b. Ask students if they think the juvenile justice system is tougher against girls or against boys. Encourage students to express their opinions and reasons.

Have them read "Justice System Called Tougher Against Girls" in Unit III: Appendix Q.

Questions for discussion may include:

- What are some common examples of status offenses?
- What are some possible reasons why Hawai'i's young people are referred to Family Court rather than having their cases dismissed?
- Why do you suppose females are more likely to be referred, detained and placed in institutions than males?

c. Have students read "A Boy's Death in Jail" in Unit III: Appendix R.

Questions for discussion may include:

- What responsibility (if any) do the boy's parents have in this case?
- How should the law deal with the inmates who were responsible for Peterman's death?
- If you lived in Boise, would you want to see any changes in the justice system?

6. Juvenile Violent Crime

a. Have students read "Juvenile Violent Crime Arrests Down 17% in 4 Years" in Unit III: Appendix S.

Discuss the following questions:

- Why are juvenile crime arrests down 17%?
- Why do some high schools have a higher arrest record than others?
- Are there differences between the local and national juvenile violent crime rate?

b. Have students recall examples of violent crime committed by juveniles. Discuss the changes that are occurring in the law in some states to deal with violent crime committed by juveniles.

Culminating Activity

Have students read "Parents Force Child to Burglarize" in Unit III: Appendix T.

Ask students to role-play the situation and discuss how they think the law should deal with the boy and his parents.

UNIT III: APPENDIX A

WARRANTS LIKELY FOR AUTO SEARCH HERE

by Charles Memminger

Honolulu police probably will continue to obtain warrants before searching closed containers in cars despite a recent U.S. Supreme Court ruling expanding their authority to search the contents of vehicles.

The reason, according to the city prosecutor's office, is that the state Supreme Court most likely will ignore the high court's ruling. The state Supreme Court historically has gone out of its way to protect individuals from unreasonable search to the extent that it sometimes goes beyond rights afforded by the U.S. Constitution, officials said.

The U.S. Supreme Court ruled this week that police have the authority to search all the contents of a car, including closed packages and boxes, if an officer has reasonable cause to believe there is contraband inside. Until that ruling, police were required to get search warrants before prying into closed containers.

But what appears to be a boon to police probably will not have too much effect here, said Arthur Ross, deputy city prosecutor in charge of appeals.

While the prosecutor's office welcomed the decision, Ross added, "I personally feel that the Hawaii Supreme Court will not follow the decision."

As an example, Ross mentioned a 1980 case in which a man was arrested on gun charges after police found a modified rifle hidden in a ukulele case in his car. Police had responded to a report of shots being fired in the Halawa area and had stopped the car that the suspect was driving, Ross said.

Inside the car, they found a bullet casing that they felt gave them probable cause to search the ukulele case. The state Supreme Court, however, said police should have gotten a search warrant before looking in the case.

Under the U.S. Supreme Court ruling this week, that search would be considered legal, Ross said. But if the matter came before the state Supreme Court again, it probably still would rule in favor of the defendant.

"It (the ruling) won't make a great deal of change," Ross said. "Our court seems to be at a different end of the spectrum."

Other officials in the prosecutor's office also feel that the new ruling will not have an impact in Hawaii because of the state Supreme Court's strong Fourth Amendment stand.

"The problem boils down to the fact that the enlightened, well-reasoned and progressive decision the Supreme Court just made can fall on deaf ears in any state court," said Peter Carlisle of the prosecutor's career criminal unit.

Nevertheless, Carlisle hailed the ruling as a move in the right direction. "The whole area of exclusion of relative evidence due to police misconduct has been a disaster we have been dealing with for decades."

On the other hand, Jon Van Dyke, law professor at the University of Hawaii Law School, sees the high court's decision as a "great cause for concern."

Admitting that he has not yet had time to review the entire decision, Van Dyke said a major flaw in the ruling is that it transfers the potential for irresponsibility from a neutral magistrate to the police officer.

The decision as to whether a closed container should be opened should be made by a judge who can carefully consider a defendant's rights, he said. "We know police will be less concerned about the rights of an individual," he said.

The ruling shows that the country is "moving away from the tradition that led to the adoption of the Fourth Amendment. I feel my right to privacy is less strong than it was yesterday," Van Dyke said.

Reprinted with permission of the Honolulu Star-Bulletin, June 3, 1982.

UNIT III: APPENDIX B

MIRANDA V. ARIZONA (1966)

Ernesto Miranda was arrested for kidnapping and raping an 18-year-old girl. He was identified in a lineup by the girl as the attacker. The police then took Miranda into an interrogation room and questioned him for two hours. They did not tell him he had the right to a lawyer or that he had the right to remain silent.

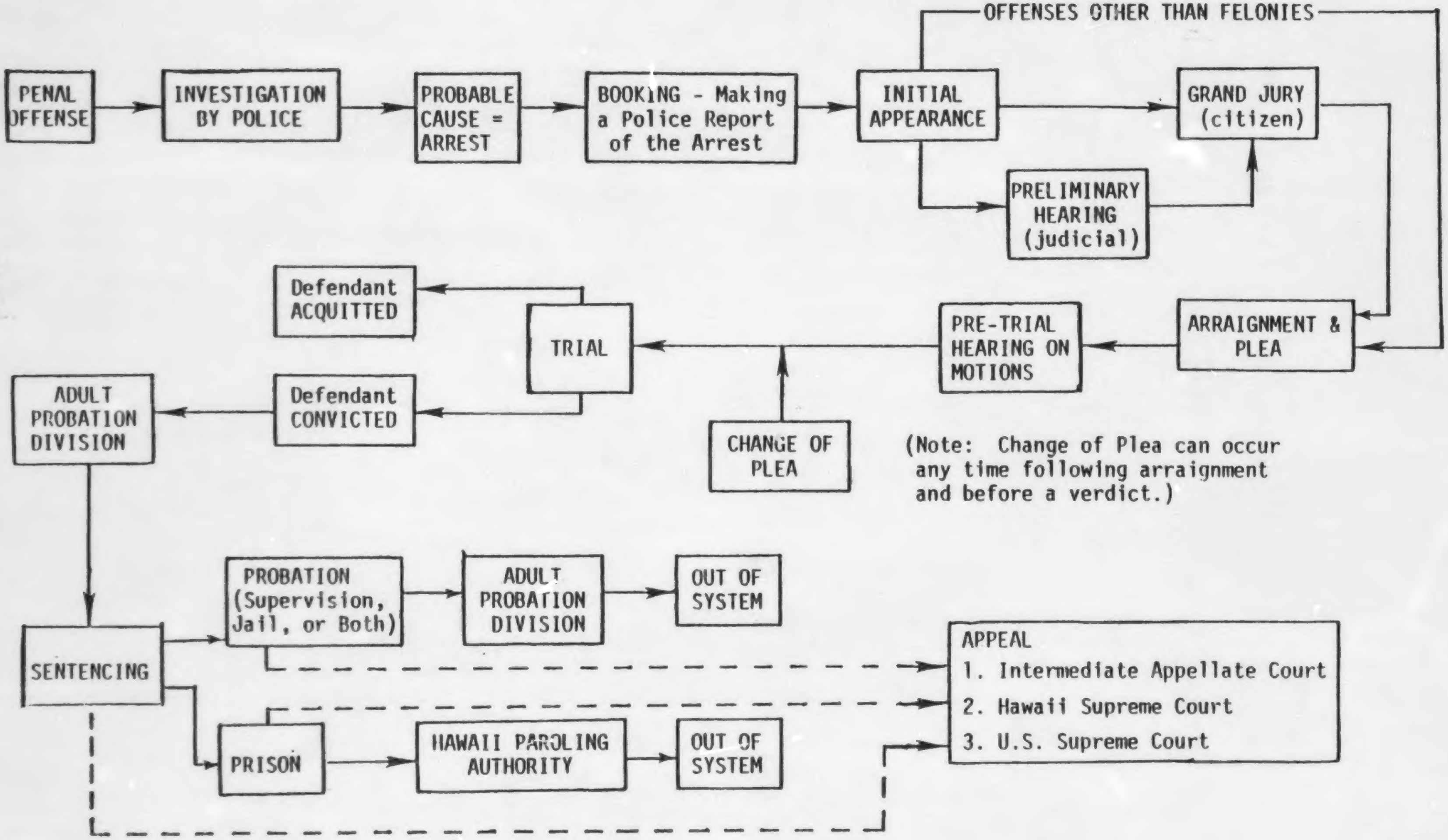
Under questioning, Miranda admitted to the crime and signed a confession. The paper which Miranda signed stated that the confession was made "with my full knowledge of my legal rights, understanding any statement I make may be used against me." This confession was used as evidence at Miranda's trial and he was convicted.

Miranda appealed his case. His lawyer argued that he had not been informed of his rights and thus, had been deprived of due process of law. The state of Arizona claimed that Miranda had been aware of his rights and that he had signed the confession voluntarily.

Source: Ratcliffe, Robert H. (General Editor), Great Cases of the Supreme Court. Boston: Houghton Mifflin Company, 1975, pp. 103-104.

UNIT III: APPENDIX C

CRIMINAL PROCEDURE FLOW CHART


OFFENSES OTHER THAN FELONIES
PENAL OFFENSE
INVESTIGATION BY POLICE
PROBABLE CAUSE = ARREST
BOOKING - Making a Police Report of the Arrest
INITIAL APPEARANCE
GRAND JURY (citizen)
PRELIMINARY HEARING (judicial)
Defendant ACQUITTED
TRIAL
PRE-TRIAL HEARING ON MOTIONS
ARRAIGNMENT & PLEA
ADULT PROBATION DIVISION
Defendant CONVICTED
CHANGE OF PLEA
PROBATION (Supervision, Jail, or Both)
ADULT PROBATION DIVISION
OUT OF SYSTEM
SENTENCING
APPEAL
1. Intermediate Appellate Court
2. Hawaii Supreme Court
3. U.S. Supreme Court
PRISON
HAWAII PAROLING AUTHORITY
OUT OF SYSTEM

(Note: Change of Plea can occur any time following arraignment and before a verdict.)

Source: The Hawaii Crime Commission, Principles of Criminal Proceedings in Hawaii's Judicial System, 1980, p. 22.

UNIT III: APPENDIX D

BAIL HEARING

In each of the cases below, the person has been arrested and charged with a crime. Decide whether the person should be released, and if so, under what conditions. Explain your answers.

Options: (1) money bond -- set an amount;
(2) personal recognizance;
(3) conditional release -- state the conditions;
(4) pre-trial detention -- stay in jail until trial.

Case 1

Name: Jean Smith Age: 21
Charge: Prostitution
Employment: Waikiki Massage Service, said to earn $1,000 per week
Education: High school graduate
Criminal Record: Three previous arrests for prostitution, two for theft, two convictions, is presently on probation
Comment: Vice squad officer alleges defendant has been catering to tourists.

Case 2

Name: Jose Alvarez Age: 18
Charge: Possession of narcotics
Employment: Unemployed
Education: 8th grade
Criminal Record: Six juvenile arrests on drug charges
Comment: Defendant arrested leaving a rock concert carrying cocaine. Medical tests indicate defendant is currently using narcotics.

Case 3

Name: Michael Jones Age: 20
Charge: Armed robbery
Employment: Busboy, earns $125 per week
Education: High school graduate
Criminal Record: Ten juvenile arrests for burglary, spent two years at Koolau
Comment: Arrested after being identified as the person who held up a jewelry store in Ala Moana Center.

UNIT III: APPENDIX E

PROBABLE DEFENSE

Directions:

Identify the probable defense in each situation below.

____________________ 1. Jack is charged with rape, but he says that his twin brother Joe is responsible for the offense.

____________________ 2. Mr. Brown is charged with his wife's murder, but claims he can prove he was 50 miles away on a business trip when the murder occurred.

____________________ 3. Mrs. Smith receives a phone call saying that her husband will be killed unless she takes a diamond pendant from the jewelry store where she works and delivers it by 5 p.m. to her husband's abductor.

____________________ 4. After leaving a disco at 2 a.m. Kimo drives off in a blue Camaro the attendant brings him, only to find out it is not his blue Camaro.

____________________ 5. Carol, age 5, who has found her mother's gun, accidently shoots and kills her friend Alice, age 6.

____________________ 6. At 3 a.m. Mr. Kane shoots and kills an intruder who is choking his teenage daughter in her bedroom.

____________________ 7. On arriving home after work Susan catches a man who is breaking into her safe. The man has a bolo knife. Susan kills him with a handgun.

____________________ 8. After being burned in a fire in his home, Bill Akina grabs his neighbor's car and rushes to the hospital for treatment.

____________________ 9. A drug undercover agent goes to a doctor as a patient, saying he wants drugs for a party.

____________________10. Bob has been arrested and charged with killing 18 young girls and burying their bodies in a pineapple field.

UNIT III: APPENDIX F

MAPP V. OHIO (1961)

On May 17, 1957, three police officers arrived at the two story home of Miss Dollree Mapp. They had heard that Miss Mapp was hiding a person wanted for questioning about a recent bombing and that gambling information was also hidden in the home.

Miss Mapp did not allow the police to enter the home. She called her attorney who advised her to refuse entrance to the police without a search warrant.

Three hours later, four additional officers arrived and when Miss Mapp did not immediately answer their knock, they broke down the door.

Miss Mapp demanded to see a warrant. A police officer produced a piece of paper and Miss Mapp snatched it from him. The officer then struggled with her to get possession of the paper. (A warrant was never produced in the trial.)

Miss Mapp was handcuffed and forcibly taken upstairs when the police officers searched a dresser, a chest of drawers, a closet and some suitcases. The police also searched through other parts of the house and found a trunk containing obscene materials in the basement. Miss Mapp claimed that the trunk and materials were not hers, but belonged to a former tenant.

She was convicted for possession of obscene materials and the Ohio Supreme Court sustained her conviction.

She appealed her case to the U.S. Supreme Court under the Fourteenth Amendment, which guarantees "due process of law" to all persons. She claimed that "due process" includes the Fourth Amendment which states "... no warrant shall issue, but upon probable cause ... and particularly describing the place to be searched, and the persons or things to be seized."

Source: Pearson, Craig and Charles Cutler (Editors), Liberty Under Law. Columbus: American Education Publications, 1963, p. 23.

SMITH V. STATE

Walt Smith and Guy Fulsom had a fight over money. Smith hit Fulsom and knocked him down. Fulsom gave him all the money he had in his wallet - $6.75, got up and went home.

Later Smith arrived at Fulsom's house with a gun and threatened to kill Fulsom. He fired three shots into the house. Smith was arrested and charged with assault with intent to kill.

At the trial, Smith pleaded not guilty by reason of insanity. The prosecution presented psychiatric reports which stated he was not insane. The doctors who examined him did not testify at the trial.

Smith was convicted and sentenced to one year in prison. He appealed the conviction to the Arkansas Supreme Court on the grounds that his constitutional right to confront witnesses was violated because the doctors did not testify.

Source: Pearson, Craig and Charles Cutler. Liberty Under Law. American Education Publications, 1963, p. 43.

UNIT III: APPENDIX H

THIEL V. SOUTHERN PACIFIC COMPANY (1946)

Gilbert Thiel had jumped out of a train as it was going down the tracks. Miraculously, he survived the accident. He then decided to sue the Southern Pacific Railroad for allowing him to jump.

He claimed that he was not mentally sound and that the train conductor and others on the train should have known that he was not mentally sound. Knowing this, they shouldn't have allowed him on the train or should have watched him on the train so he wouldn't have jumped from the moving train.

Thiel lost his case in the district court of California. He subsequently appealed his case and claimed that he did not have an impartial jury. He was a "working man" and his jury had been composed of business executives. He felt they would side with the company and therefore, he did not have a fair trial.

Source: Manoni, Mary H., Our Bill of Rights. Scott, Foresman and Company, 1970, pp. 76-77.

UNIT III: APPENDIX I

OUR CHANGING COURT SYSTEM

There are significant changes occurring in the American judicial system. The ever-increasing caseloads and new technology are forcing the judicial system to experiment with different ways of handling criminal and civil cases. The following are some examples.

Neighborhood Mediation Centers

The mediation centers generally use volunteers trained in mediation techniques to encourage the people involved in a disagreement to talk about their differences and reach a common solution. The agreement is written down and the mediator contacts both sides a few weeks later to see whether they are abiding by the agreement.

Unlike the court system, mediation is fairly simple and is accessible to people.

Larry Ray, staff director of the American Bar Association's special committee on resolution of minor disputes, claims that mediation works. He says that evaluations show that 85 percent of those who participate liked it and would use it again.

Jury Changes

More than two million citizens serve on juries deciding some 200,000 cases every year. One method to streamline the judicial system is to use smaller juries than the traditional twelve. The Supreme Court has ruled that a minimum number of six is acceptable.

Another method is to allow judges to decide complicated lawsuits involving large corporations. One argument in favor of non-jury trials is its efficiency. However, opponents argue that the gains in efficiency would be outweighed by the loss of fairness.

Alternative Sentencing

Many judges are experimenting with restitution programs as an alternative to prison, generally for first-time non-violent offenses. For example, juvenile burglars in Columbus, Ohio, were sentenced to trim trees in city parks. Juvenile offenders in Connecticut were sentenced to work in government-provided jobs, with a portion of their earnings to be sent to their victims.

The application of such sentences depends on the philosophy of the individual judges and this has led to charges of inequity. Two people accused of the same crime may end up with very different sentences, depending on the judges they face.

TV in the Courtroom

The Supreme Court ruled in January 1981 that TV coverage does not, in itself, violate a defendant's constitutional right to a fair trial in a criminal case.

Critics of TV coverage say that judges, jurors and witnesses can be distracted by the knowledge that they are being taped. Another criticism is that witnesses may be reluctant to testify if they know they will be televised.

A proponent for TV in court argues that today's video cameras are so silent and unobstrusive that the possibility for distraction is very small. He claims that Americans have become so accustomed to being monitored by television (in banks, supermarkets, etc.) that they wouldn't notice it in the courtroom. Other proponents of TV coverage argue that the public is better able to participate in the judicial system if television court coverage is allowed.

Source: Gentry, Margaret, "Hear Ye! Hear Ye! Our Court Systems Are Changing," Senior Scholastic, January 8, 1982, pp. 7-9.

UNIT III: APPENDIX J

MOCK TRIAL ROLES

Judge

Preside over the trial. Your tasks include the following:

1. Make sure the trial proceeds in an orderly sequence. Keep a copy of the "Outline For Mock Trials" handy at all times.

2. Rule on objections by opposing attorneys. You may be called upon to rule on the following:

   a. An attorney harassing the other side's witnesses. Generally, wait for objection, then issue a warning and instruct the jury to disregard the comment.

   b. An attorney asking leading questions during direct examination. Leading questions are prohibited during direct examination. An example of a leading question is "Isn't it true that____?" Wait for an objection, and ask the attorney to rephrase the question.

   c. A witness expressing an opinion. As a general rule, the witness should confine the testimony to matters of personal knowledge. However, expert witnesses, those who have special knowledge or experience in a certain field, are allowed to give opinions on their areas of expertise. Wait for an objection and ask the jury to disregard the comment.

   d. A witness giving hearsay evidence. Generally, hearsay is not permitted as evidence. Hearsay includes statements such as "I heard . . ." and "I was told . . ." Wait for an objection and ask the jury to disregard the comment.

   e. An attorney asking an irrelevant question or a witness giving irrelevant testimony. Wait for an objection and ask the attorney to ask another question or ask the jury to disregard the witness' testimony.

3. Maintain order. Talking among jurors, witnesses and observers should not be permitted.

4. Give instructions to the jury after the closing arguments. Explain to the jury the rules of law which apply to the case and which it should consider in reaching a decision. Generally, the prosecution (plaintiff in a civil case) bears the burden of proof. In a criminal case, the prosecution must prove "beyond a reasonable doubt" that the defendant is guilty. In a civil case, the attorney for the plaintiff must prove his or her case by a "preponderance of evidence."

   Say: "Ladies and gentlemen of the jury, the law states__________. You have heard the evidence and must decide whether the defendant is guilty of _________ or innocent of (or innocent by viture of)_________.

Bailiff/Clerk

1. Calls the court to order and announces the case.

2. Calls each witness to the stand and swears in the witness. Or remind the witness that he/she is still under oath. (Get a list of witnesses from the attorneys in the order they are to be called.)

3. Gives the closing announcement.

Attorneys

1. Make an opening statement to the jury. Briefly outline what you intend to prove or show. Describe how your witnesses' testimony will support your arguments.

2. Question your own witnesses. Ask clear and concise questions. Ask only for information that will help your case. Leading questions are prohibited during direct examination. Work closely with your witnesses on their testimony.

3. Cross-examine the other side's witnesses. Try to get information that is helpful to your case. Use questions to point out inconsistencies in the witnesses' testimony and to raise doubt in the minds of the jurors concerning the credibility of the witnesses. Leading questions are permitted during cross-examination.

4. Raise objections to improper questioning or testimony. Stand, say "objection" and give reason, such as counsel is asking a leading question, witness is expressing an opinion, witness is giving hearsay evidence or irrelevant testimony, counsel is harassing the witness or asking an irrelevant question.

5. Introduce physical evidence (documents, photographs, objects, etc.).

    a. Ask the judge for permission to have the item marked for identification. Say: "Your Honor, I ask that this _____ be marked for identification as Exhibit A."

    b. Show the item to the other side to give them an opportunity to raise any objections.

    c. Ask the witness on the stand to identify the item.

    d. Move the item into evidence. Say: "Your Honor, I offer this ______ for admission into evidence." Give the evidence to the bailiff or clerk.

6. Present closing arguments to the jury. Summarize concisely the testimony that has supported your case. Ask the jury for a decision in your favor based on the evidence that has been presented.

Witnesses

1. Stick closely to the information presented in the script.
2. Memorize the information contained in the script, especially your sworn testimony. See yourself as the witness.
3. Work with your attorney.

Jury Members

1. Listen carefully to what is said in court.
2. In reaching a verdict, consider the following:
    a. what the judge has instructed you to do;
    b. what you think the evidence has shown.

Jury Foreperson

1. Take charge of the jury discussion and voting (secret ballot).
2. Give the verdict.

Defendant

1. Memorize the information contained in the script.
2. Work closely with your attorney.
3. Act the role.

Sources:

Arbetman, Lee P., et al. Street Law: A Course in Practical Law, Second Edition, Teacher's Manual. New York: West Publishing Company, 1980, pp. 17-19.

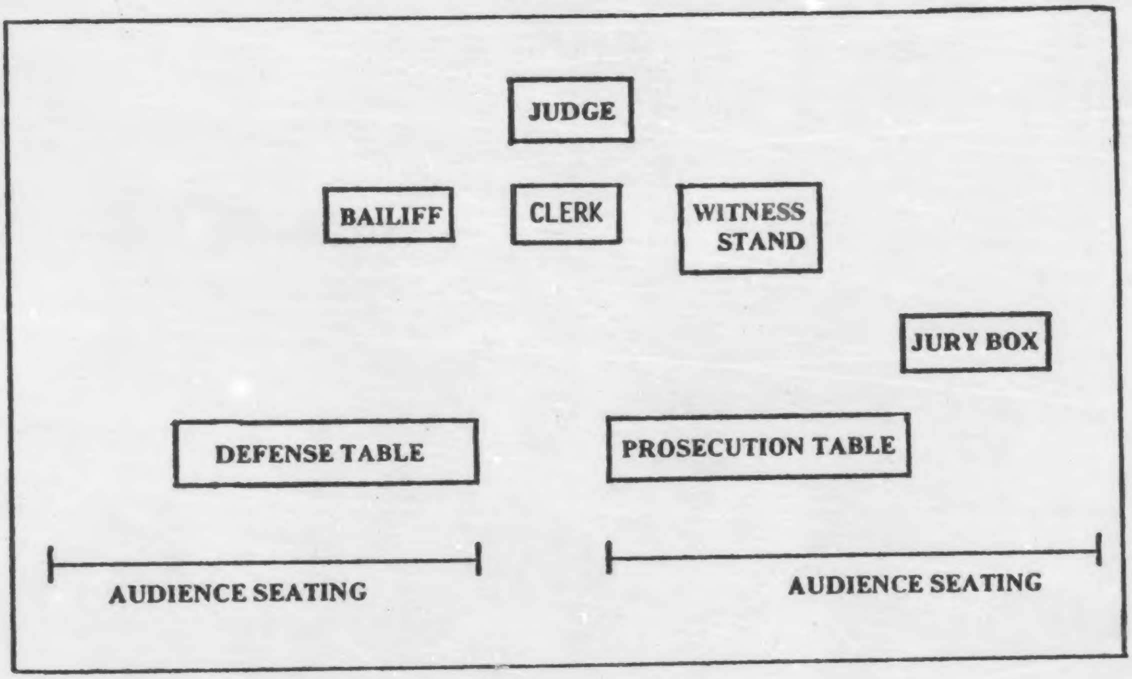
Gerlach, Roland A. and Lynne W. Lamprecht. Teaching About the Law. Cincinnati: The W. H. Anderson Company, 1975, pp. 237-240.

UNIT III: APPENDIX K

OUTLINE FOR MOCK TRIALS

Before participating in a mock trial, it is important to be familiar with the physical setting of the courtroom, as well as with the events that generally take place during the exercise and the order in which they occur. This section outlines the usual steps in a trial.

COURTROOM LAYOUT


JUDGE
BAILIFF
CLERK
WITNESS STAND
JURY BOX
DEFENSE TABLE
PROSECUTION TABLE
AUDIENCE SEATING
AUDIENCE SEATING

PARTICIPANTS

- The Judge
- The Attorneys
  - Prosecutor - Defense (Criminal Case)
  - Petitioner - Respondent (Civil Case)
- Witnesses
- Jurors

- The Bailiff and/or Clerk

- Courtroom Observers

TRIAL PROCEDURES

Opening of the Court

The clerk of the court rises, raps the gavel and says: "All rise. The ____Circuit Court of the State of Hawaii is now in session. The Honorable Judge __________presiding." Everyone remains standing until the judge enters and is seated.

Next, the judge asks the clerk to call the day's calendar (also called the "docket"), at which point the clerk says: "Your Honor, today's case is _________v. __________. The judge will then ask the attorneys for each side if they are ready.

Each attorney gives his or her name, the name of the defendant or plaintiff and states that he or she is ready. "(Name of attorney) representing (Name of defendant or plaintiff). The (plaintiff or defendant) is ready."

The clerk asks: "Your Honor, may the jury be brought in?"

Judge : "Proceed with the trial of the case."

Swearing in the Jury

The clerk has the jurors sit in the jury box. When they are seated, the clerk says to them: "Will the persons in the jury box please rise and raise your right hands?"

When they stand up, the clerk says: "You and each of you do solemnly swear that in the case now pending before this court you will give a truthful verdict according to the law and the evidence."

Jurors answer together: "I do." Jurors may be seated.

Opening Statements

(1) Prosecution (in criminal case)
Petitioner (in civil case)

After introducing himself or herself and colleagues to the judge, the prosecutor in a criminal case (or petitioner's attorney in a civil case) addresses the jury and summarizes the evidence which will be presented to prove the case.

(2) Defense (in criminal case)
Respondent (in civil case)

After introducing himself or herself to the judge, the defendant's attorney in a criminal case (or respondent's attorney in a civil case) addresses the jury and summarizes the evidence for the Court which will be presented to rebut the case the prosecution has made.

Swearing in the Witness

The clerk says: "Please raise your right hand. Do you solemnly swear that the testimony you are about to give is the truth, the whole truth and nothing but the truth?"

Witness responds: "I do."

Clerk says: "Please be seated and state your name for the court and spell your last name."

Direct Examination by Prosecution (or Petitioner's Attorney(s)

The prosecutor(s) or petitioner's attorney(s) conducts direct examination (questioning) of each of its own witnesses. At this time, testimony and other evidence to prove the prosecution's (petitioner's) case will be presented. The purpose of direct examination is to allow the witness to narrate the facts in support of the case.

Note: The attorneys for both sides, on both direct and cross-examination, should remember that their only function is to ask questions; attorneys themselves may not testify or give evidence, and they must avoid phrasing questions in a way that might violate this rule.

Cross-Examination by the Defense (or Respondent's Attorneys)

After the attorney for the prosecution or petitioner has completed questioning each witness, the judge then allows the other party (i.e., defense attorney) to cross-examine the witness. The cross-examiner seeks to clarify or cast doubt upon the testimony of opposing witnesses. Inconsistency in stories, bias, and other damaging facts may be pointed out to the judge through cross-examination.

Direct Examination by the Defense(Respondent's Attorneys)

Direct examination of each defense witness follows the same pattern as the above which describes the process for prosecution's witnesses.

Cross-Examination by the Prosecution (Petitioner's Attorneys)

Cross-examination of each defense witness follows the same pattern as the step above for cross-examination by the defense.

Closing Arguments

(1) Prosecution (Plaintiff)

A closing statement is a review of the evidence presented. It should indicate how the evidence has satisfied the elements of the charge or claim, point out the law applicable to the case, and ask for a finding (verdict) of guilty (criminal case).

(2) Defense (Respondent)

The closing statement for the defense is essentially the same as for the prosecution. Counsel for the defense reviews the evidence as presented, indicates how the evidence does not satisfy the elements of the charge or claim, stresses the facts favorable to the defense and asks for a finding (verdict) of not guilty (criminal case) or judgment for the defense (civil case).

Instruction and Verdict

After closing arguments the judge gives instructions to the jurors. The judge tells them what principles of law apply to the case and asks them to carefully consider the evidence presented before reaching a verdict.

Jury leaves the room to deliberate, and returns when it has reached a verdict.

When the jury returns, the clerk of the court asks: "Ladies and gentlemen of the jury, have you arrived at a verdict?"

The foreperson gives their decision.

Closing Announcement

After the verdict, the bailiff or clerk says: "Please rise. All persons having any further business before this honorable circuit court of the State of Hawai'i may appear here tomorrow morning at ______ o'clock to which time this court stands adjourned.

Source: Hawaii State Department of Education, 1983 High School Mock Trial Tournament, Teacher's Handbook.

UNIT III: APPENDIX L

PRISON CONDITIONS

Outraged public demand for tougher sentences and increasing crime rates have resulted in many of the nation's prisons becoming dangerously overcrowded. According to a Justice Department report, two thirds of the nation's prisons are overcrowded.

Compounding this problem is the understaffing of many prisons. Soaring costs and declining budgets mean that many programs have been curtailed or discontinued. As a result, prisoners spend a lot of time locked in their cells and assaults of prisoners by prisoners are common.

The overcrowding and understaffing leave prison officials and guards powerless to deal with the violence within the prison. Guards have also been attacked by prisoners.

After a destructive prison riot in Michigan, officials listened to the prisoners' complaints and were surprised to hear that the prisoners wanted more guards. The prisoners explained that less guards mean less recreation time and more time locked in their cells.

Some prisons deal with the problem of overcrowding by placing prisoners in workshops, classrooms and hallways. A former storage hut and trailers were used in New Jersey institutions to house the prisoner overflow.

A number of overcrowded state prisons refused to immediately accept convicted, long-term prisoners from city and county jails. This, in turn, added to the overcrowding of local jails. It also meant that convicted felons were housed together with people serving short sentences for minor offenses and those awaiting trial.

Some people believe that prison officials should release "harmless" prisoners when necessary to reduce overcrowding. A study conducted for the National Institute of Justice, an agency of the Justice Department, recommended that crowded prisons speed up the release of prisoners through paroles, commutations and time off for good behavior.

Many citizens are concerned about the safety of the public with the early release of prisoners. Prison officals argue that a long sentence in a violence-prone prison is likely to result in a person who is broke, bitter, anti-social and unskilled at anything besides crime and violence. Many feel that merely incarcerating offenders without increasing the space or programs for inmates, works against the long term goal of creating a safe society.

Many communities are using alternative sentences for non-violent crimes. For example, some towns require offenders convicted of burglary, larceny and auto theft to pay compensation or make restitution to their victims. Those convicted of vandalism or disorderly conduct are required to pay fines and/or perform some community service. However, such programs are usually backed by the threat of prison.

Many experts feel that alternatives should also be offered within the prison system. For example, non-violent prisoners can be separated from violent ones. Certain prisoners can be released at certain times to work programs with part of the earnings going to repay the victims and/or pay part of the prison costs.

Sociologist Parker Rossman says in the April 1981 issue of *The Futurist*: "...to be effective punishment in the future must include some kind of reconciliation with society ..."

Source: O'Gorman, Samuel F., "Overcrowded Prisons: Part of the Solution to Crime .. Or Part of the Problem?" *Senior Scholastic*, November 13, 1981, pp. 14-16.

UNIT III: APPENDIX M

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UNIT III: APPENDIX N

JUVENILE OR ADULT?

Directions: For each of the situations below, decide if the person should be tried as a juvenile or adult. Be able to explain your decisions.

1. Jean, age 16, is picked up by the police in Waikiki and accused of prostitution. She has run away from home on three previous occasions.
2. Kimo, age 15, is accused of killing a pedestrian while driving a stolen car. This is the first time he has ever been in trouble and is very upset and sorry about what he has done.
3. Roland, age 17, is accused of shoplifting a $500 watch. On the way to the station, he brags that he has shoplifted many times in the past and that he will "beat this rap." He also states that shoplifting is "no big thing."

UNIT III: APPENDIX O

FAMILY COURTS

The Family Courts are divisions of the Circuit Courts, specializing in cases involving children, family and domestic problems.

On Oahu, two Circuit and five District Family Court judges hear cases. On the Neighbor Islands, both Circuit and District Court judges are assigned to Family Court cases in addition to their other duties.

The Family Court staff on Oahu provides supervision services for juveniles, marriage and family counseling, custody investigations and other support services for judges. In addition to these services, the Neighbor Island staffs also provide adult probation and investigation services to the Circuit Court.

The Family Courts in Hawaii came into existence on July 1, 1966, under the authority of Act 232, Session Laws of Hawaii, 1965. Hawaii was the second state in the nation to establish a Family Court and its program is considered a model, especially by other states which later adopted the concept.

Children: The Family Courts have exclusive original jurisdiction over children (persons less than age 18) who are:

- in violation or attempted violation of any federal, state or municipal law;
- neglected, abandoned or subjected to physical or emotional deprivation or abuse;
- beyond the control of their parents or whose behavior is injurious to their own or others' welfare;
- neither attending school nor receiving educational services required by law.

In addition, the Family Courts handle adoption cases, termination of parental rights, consent to marriage, employment or enlistment, treatment of commitment of mentally defective, mentally retarded or mentally ill children to a psychiatric or other appropriate facility, guardianship of a person and all cases arising under the Uniform Child Custody Jurisdiction Act, the Interstate Compact on Juveniles and extradition of minors.

The Family Courts retain jurisdiction over a person until the age of majority in Hawaii, and in special cases to age 20 where a judicial determination is made that this is the best interest of the person and the community.

The Family Courts may, after full investigation and hearing, waive jurisdiction and permit criminal prosecution of any child 16 years of age or older who has allegedly committed a felony and a person over 18 years of age who has allegedly violated a law before reaching the age of 18.

Adults: The Family Courts have exclusive original jurisdiction over adults in limited kinds of criminal cases such as:

- any offense committed against a child by the child's parent, guardian, legal or physical custodian;
- desertion, abandonment or failure to support for any person in violation of law;
- certain offenses by a spouse against the person of a spouse.

In civil matters the Family Courts' jurisdiction over adults covers:

- divorce, separation, annulment, custody and support proceedings;
- guardianship of a person of an incompetent adult and adoption of certain adults;
- commitment of mentally defective or mentally ill persons to a psychiatric or other appropriate facility;
- Temporary Restraining Order in domestic violence cases.

Source: The Judiciary • State of Hawaii • Annual Report, July 1, 1979 - June 30, 1980, p. 26.

UNIT III: APPENDIX P

IN RE GAULT

In Gila County, Arizona, Mrs. Cook complained to the sheriff that she had received an obscene phone call. She thought some boys in the neighborhood had made it. Two boys were subsequently taken into custody. One was 15-year-old Gerald Gault who was taken to a juvenile detention center. His parents were not notified of his arrest until hours later.

When Mrs. Gault arrived at the detention center, she was informed that a hearing would be held the next afternoon. At the hearing Gerald admitted he had dialed Mrs. Cook's number, but denied making obscene remarks. The complainant, Mrs. Cooke, was not present and instead, a police officer testified to what he had been told by Mrs. Cooke. The police officer was not sworn in to testify and no records of the hearing were kept.

A second hearing was held one week later. At that hearing the judge stated that Gerald had admitted making some of the obscene remarks. The judge had received a "referral report" on Gerald from the probation officer. He then found by a preponderance of the evidence that Gerald was a delinquent and ordered that he be committed to the state reformatory until the age of twenty-one.

If Gerald had been over eighteen, and had been tried as an adult, the maximum penalty would have been a fine of $50 or imprisonment for two months.

The family decided to appeal the case. Gerald's lawyers argued that the Arizona Juvenile Code violated the due process clause of the Fourteenth Amendment which guarantees certain rights to all persons accused of crimes.

The state argues that such rights would undermine the whole idea of informal proceedings under the juvenile court system.

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UNIT III: APPENDIX Q

JUSTICE SYSTEM CALLED TOUGHER AGAINST GIRLS

by Janice Wolf

The juvenile justice system's treatment of status offenders was on trial yesterday at the Hawaii Conference of Young Women. The verdict: The laws are "sex neutral" - but the treatment isn't.

A panel of local and Mainland professionals took a hard look at the treatment of boys and girls and found that a girl is more likely to be arrested and detained for a status offense than her brother.

Status offenses - acts that would not be crimes if committed by an adult - include running away, truancy, disobedience to parents and curfew violations.

"When both local and national statistics are examined, it becomes apparent that young women are far more likely than their male counterparts to be referred, detained, and placed in institutions for status offenses, rather than for violations of the law," said Carol Zimmerman, executive director of New Directions for Women, an Arizona-based program and co-sponsor of the conference.

"The most common offenses of girls are truancy, running away and incorrigibility," Zimmerman said. "Although theoretically boys and girls are equally answerable for the offenses, in practice, more than twice as many girls as boys are charged and sentenced for them."

Zimmerman charged that such terms as "in need of supervision" and "incorrigibility" are "often nothing more than euphemisms for sexual activity by girls or the court's fear of "promiscuity."

"...Expectations of aggressiveness and independence on the part of boys, of obedience, passivity and chastity in girls, have resulted in parents' referring their daughters to juvenile courts far more frequently, and for less serious offenses than their sons."

Zimmerman called for the elimination of status offense laws and the release of "non-criminal" youths from Family Court jurisdiction.

According to University of Hawaii sociologist Meda Chesney Lind, island youngsters are arrested for status offenses more frequently, are more likely to be referred to Family Court and are less likely to have their cases dismissed than Mainland youngsters.

She cited 1977 figures indicating that status offenses accounted for 13 percent of the nation's juvenile arrests - compared with 22 percent of the total juvenile arrests in the islands.

Panelist Ira Schwartz, a research fellow at the Hubert Humphrey Institute of Public Affairs at the University of Minnesota, challenged the idea that providing alternatives to detention will reduce the lock-up rate.

Schwartz said the only way to cut down on the use of detention is to actually reduce the bed space as alternatives are created. He said a prime attractiveness of detention home has always been the availability of beds.

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UNIT III: APPENDIX R

A BOY'S DEATH IN JAIL

Christopher Peterman, a 17-year-old boy in Boise, Idaho, was tortured and murdered in the county jail. He was imprisoned for failing to pay less than $65 in traffic fines.

Peterman was beaten, kicked and burned, allegedly by his five cellmates, three of whom, all 17, were charged with first degree murder.

A former cellmate claimed he was also severely beaten by three of the five youths charged in Peterman's death.

Peterman's death resulted in a protest outside the Ada County Jail. Mrs. Peterman, who had refused to pay the fines, was the first to sign a petition urging the passage of a law to prohibit people from being imprisoned for non-payment of minor traffic offenses.

John Woods of Boise stated that something needed to be done about Boise's law enforcement. Others called for the recall of the sheriff.

One woman, Dianne Corbin, voiced her opinion that the officers were being used as scapegoats. She said that when any system is overloaded, it will function by doing what is efficient and not necessarily what is best.

Source: United Press International, "Boy's Jail-death Sparks Fury in Idaho." Reprinted in The Honolulu Advertiser, June 4, 1982.

UNIT III: APPENDIX S

JUVENILE VIOLENT CRIME ARRESTS DOWN 17% IN 4 YEARS

by Hildegaard Verploegen

Oahu juvenile arrest statistics do not support a popular belief that juveniles are shifting to more violent crimes, according to a new report prepared by the Youth Development and Research Center of the University of Hawaii's School of Social Work.

The report shows that the number of Oahu juveniles arrested for offenses in the most violent crime index declined by 17 percent during a four-year period - from 244 arrests in 1977 to 202 arrests in 1980.

Offenses included in the most violent crime index are murder, non-negligent manslaughter, forcible rape, robbery and aggravated assault.

If Oahu juvenile arrest statistics for violent crimes are compared over a longer period, the rate is quite stable - from 206 arrests in 1973 to 202 arrests in 1980.

The report notes that the 202 juveniles arrested for violent crimes represented only 2.5 percent of all juveniles arrested here in 1980.

The report shows that much depends on the time period chosen for comparisons. For example, in 1973, 206 Oahu juveniles were arrested for violent crimes. That total increased steadily to a peak of 311 in 1976, and then began to drop steadily each year to the 202 arrested in 1980.

Likewise, the report shows an overall increase of 33 percent in the number of juvenile arrests - from a total of 6,025 Oahu juveniles arrested for all offenses in 1961 to 8,005 juveniles arrested here in 1980.

But again there are peaks and valleys, with the statistics showing that 1963 was a good year and 1976 was a bad year.

The Oahu juvenile arrest total for all crimes dropped from the 6,025 in 1961 to the record low of 4,026 in 1963. But that figure steadily increased and was more than doubled in 1976 when 8,737 Oahu juveniles were arrested.

The 50-page report, titled "Trends in Juvenile Arrests: City and County of Honolulu," was prepared by Jack T. Nagoshi, director of the Youth Development and Research Center, and researcher Meda Chesney-Lind.

Statistics on arrests of public high school students show that Waianae and Farrington High schools each had 306 students arrested in 1980.

Ranked next in order with the most arrests that year were McKinley High 249 students; Castle High in Kaneohe, 233; Pearl City High, 228; Waipahu High, 213; Kailua High, 199; and Kalaheo High in Kailua, 192.

In contrast, Leilehua High in Wahiawa - which had 312 students arrests or the most of any Oahu public high school in 1973 - had dropped to 10th place by 1980. That year 174 Leilehua students were arrested.

Ranked in order of the most arrests in 1973, behind Leilehua, were Kailua High, 260 students arrested; Farrington, 251, McKinley and Castle, 228 each; Waianae, 215; Kaimuki, 205; and Campbell High in Ewa Beach, 164.

The report shows a consistent record of more juvenile males being arrested than juvenile females. Almost three-fourths of all juveniles arrested here in 1980 were males.

"It should be noted that there has been little or no increase in either the number or proportion of girls arrested in the 1970's contrary to media accounts on the subject of female crime and delinquency," the report said.

According to the statistics, runaways are the only category in which female offenders outnumber male offenders. For example, of the 923 juveniles arrested as runaways on Oahu in 1980, 562 or 61 percent were girls.

Reprinted with permission of Honolulu Star-Bulletin, March 25, 1982.

UNIT III: APPENDIX T

PARENTS FORCE CHILD TO BURGLARIZE

On May 8, 1982, the Yandells reported that their son had run away from home. Police officers found him in a recreation hall at about 1 a.m. on May 9. He pleaded with the officers not to take him home because he could not stand any more beatings.

He was allowed to spend the night with friends. He later told the police of being whipped with a bullwhip and threatened with a gun to burglarize homes.

The police searched the Yandell home and found an estimated $250,000 in stolen items.

A judge placed the boy's 16-year-old brother and 7-year-old sister in protective custody with a family outside the state.

State welfare officials said they had received complaints of child abuse against the parents but could not remove the children without a judge's order.

The 15-year-old boy remained in protective custody in jail. He was granted immunity by the judge for any crimes he might admit while testifying.

The boy's mother, stepfather and 18-year-old sister were free on bail.

The district attorney said the boy would not be charged with any crime and that authorities are interested in his welfare.

Source: United Press International, "Forced to Burglarize, Boy, 15, Tells Police." Reprinted in The Honolulu Advertiser, June 4, 1982.

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